No. 1402

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT.

LUDOVIC DALLAGIOVANNA,
Plaintiff in Error,

vs.

UNITED STATES OF AMERICA,
Defendant in Error.

TRANSCRIPT OF RECORD.

Upon Writ of Error to the United States District Court for the District of Alaska, Second Division.

FILED
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FILMER BROS. CO. PRINT, 1642 HOWARD STREET, S. F.

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Form No. 591.

District Court for the District of Alaska, Division No. Two.

THE UNITED STATES OF AMERICA

vs.

JOHN DOE LUDOVIC, Whose True Name is Un-Known.

Indictment.

John Doe Ludovic, whose true name is unknown to the Grand Jurors, is accused by the Grand Jury of the District of Alaska, Division No. Two, by this indictment, of the crime of keeping a bawdy-house committed as follows: The said John Doe Ludovic, whose true name is unknown, within two years last past, to wit, on the 30th day of September, nineteen hundred and six, in the District aforesaid, did wrongfully and unlawfully keep and set up a house of ill-fame, brothel and bawdy-house, in the city of Nome, Alaska, for the purposes of prostitution, fornication and lewdness, the same being that certain apartment being the first apartment east of the westerly line thereof on lot 7, block 19, according to the townsite plat, contrary to the form of the statute in such case

made and provided, and against the peace and dignity of the United States.

Dated at Nome, in the District aforesaid, the 6th day of October, nineteen hundred and six.

HENRY M. HOYT,
District Attorney.

Witnesses examined before the Grand Jury:

YVONNE LAMONT.
VIOLET CAMERON.
ROSY DOE, True Name Unknown.

[Endorsed]: Original. No. 492-Crim. District Court United States, District of Alaska, Second Division. The United States vs. John Doe Ludovic. Indictment Keeping a Bawdy-house. A True Bill. John A. Webb, Foreman. Henry M. Hoyt, U. S. Attorney. Filed in the Office of the Clerk of the Dist. Court of Alaska, Second Division, at Nome. Oct. 6, 1906. Jno. H. Dunn, Clerk. By ————, Deputy.

In the District Court for the District of Alaska, Second Division.

Term Minutes, Special September, 1906, Term Begun and held at the Town of Nome, in said District and Division, Sept. 24, 1906.

Monday, Oct. 8, 1906, at 9:30 A. M.

Court convened pursuant to adjournment.

Present: Hon. ALFRED S. MOORE, Judge.

John H. Dunn, Clerk.
Angus McBride, Deputy Clerk.
H. M. Hoyt, U. S. Attorney.
Thos. C. Powell, U. S. Marshal.

Now, upon the convening of court the following proceedings were had:

* * * * * * *

No. 492—C.

UNITED STATES

vs.

LUDOVIC DALLAGIOVANNA.

Order Releasing Defendant on Bail.

Jas. W. Bell, appearing on behalf of the defendant in each of the above cases, presented to the Court a bail bond in each case, which was accepted by U. S. Attorney H. M. Hoyt, after which Mr. Bell, on be-

half of defendant, waived the reading of the indictments, a copy thereof being handed defendant; whereupon, on motion of Jas. W. Bell, defendant was granted until Wednesday, Oct. 10, 1906, within which to plead, and the defendant was ordered released. True name of defendant being Ludovic Dallagiovanna.

In the District Court for the District of Alaska, Second Division.

UNITED STATES

vs.

LUDOVIC DALLAGIOVANNA,

Defendant.

Plea in Abatement.

Comes now the defendant in the above-entitled action, and having read the indictment therein, shows to the Court the following:

1.

That the indictment filed herein charges the defendant with the alleged crime of keeping a bawdy-house, under section 127 of chapter 7 of title 1 of the Act of Congress entitled, "An Act to define and punish crimes in the District of Alaska, and to provide a Code of Criminal Procedure for said District," approved March 3, 1899, and for an offense alleged to have been committed within the incorporate limits of the municipality of Nome, Alaska, a

municipal corporation organized and existing pursuant to the laws of Alaska.

2.

That the Act of Congress entitled, "An Act to define and punish crimes in the District of Alaska, and to provide a Code of Criminal Procedure for said District," approved March 3, 1899, in so far as the same relates to prosecutions for keeping a bawdy-house within the limits of incorporated towns, was repealed to that extent by the Act of Congress entitled, "An Act to amend and codify the laws relating to municipal corporations in the District of Alaska," approved April 28, 1904.

3.

That the city of Nome is a municipal corporation organized and existing under the laws of the District of Alaska, and as such, is governed by a common council of seven members; that said common council of said city has fully complied with said Act of April 28, 1904, and has exercised the powers prescribed in section 4 of said act, including the appointment of a clerk, treasurer, assessor, municipal magistrate, municipal attorney, chief of police and other necessary officers, and that said officers have duly qualified and are acting in their several capacities, and that officers holding like positions have at all times since the passage of said act of April 28, 1904, been acting for and on behalf of said city.

That said city pursuant to paragraph tenth of section 4 of said act, through its common council aforesaid, and on the 1st day of August, 1904, ordained, enacted and passed Ordinance No. 150 of said city entitled, "An ordinance to define misdemeanors in the city of Nome, and fix the penalties therefor." That section 30 of said ordinance is as follows:

"That if any person shall set up or keep a house of ill-fame, brothel or bawdy-house for the purpose of prostitution, fornication or lewdness, or shall own, lease or let any house or room for such purpose, or any person who shall reside or frequent such house or room, shall be deemed guilty of a misdemeanor.

That in all prosecutions under this section common fame shall be competent evidence in support of the complaint."

That the penalty prescribed for the violation of said ordinance is as follows:

Sec. 55. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding the sum of one hundred dollars, or be imprisoned in the municipal jail not exceeding ninety days, or by both such fine and imprisonment in the discretion of the Court, together with the costs of the prosecution.

That since the passage of said ordinance the same has been and still is in full force and effect, and the

city of Nome has at all times exercised jurisdiction to hear, try and determine all cases of persons charged with misdemeanors, including keeping a bawdy-house, and the officers of said city have at no time failed, neglected or refused to entertain complaints and prosecute all cases of all misdemeanors committed within said city, including bawdy-houses.

4.

That the District Court for the District of Alaska, Second Division, where said indictment was found, has no jurisdiction over said offense if committed or of the person of said defendant under said act of March 3, 1899, said act having been repealed by said act of April 28, 1904.

5.

That the municipal magistrate of the city of Nome, Alaska, under said act of April 28, 1904, and said ordinance No. 150 has exclusive jurisdiction over all misdemeanors committed within the corporate limits of the city of Nome, Alaska.

Wherefore, defendant prays judgment of the Court that he be not required to make further plea or answer to said complaint, but that said indictment be dismissed and that defndant go hence without day.

HOBBES & BELL,
Attorneys for Defendant.

[Endorsed]: Case No. 492-Crim. In the District Court for the District of Alaska, Second Division. United States, Plaintiff, vs. Ludovic Dallagiovanna, Defendant. Plea in Abatement. Filed in the Office of the Clerk of the Dist. Court of Alaska, Second Division, at Nome. Oct. 10, 1906. Jno. H. Dunn, Clerk. Messrs. Hobbes & Bell, Attorneys for Defendant.

In the District Court for the District of Alaska, Second Division.

UNITED STATES

vs.

LUDOVIC DALLAGIOVANNA,

Defendant.

Demurrer.

Comes now the defendant in the above-entitled action and demurs to the indictment found against said defendant, and for grounds of demurrer alleges:

1.

That the grand jury by which it was found had no legal authority to inquire into the crime charged, because the same is not triable within the district.

2.

That it does not substantially conform to the requirements of chapter seven of title two of the act entitled, "An act to define and punish crimes in the

District of Alaska and to provide a Code of Criminal Procedure for said District."

3.

That more than one crime is charged in the indictment.

4.

That the facts stated do not constitute a crime.

HOBBES & BELL,
Attorneys for Defendant.

[Endorsed]: Case No. 492-Crim. In the District Court for the District of Alaska, Second Division. United States, Plaintiff, vs. Ludovic Dallagiovanna, Defendant. Demurrer. Filed in the Office of the Clerk of the Dist. Court of Alaska, Second Division, at Nome. Oct. 10, 1906. Jno. H. Dunn, Clerk. Messrs. Hobbes & Bell, Attorneys for Defendant.

In the District Court for the District of Alaska, Second Division.

Term Minutes, Special September, 1906, Term Begun and held at the Town of Nome, in said District and Division, Sept. 24, 1906.

Wednesday, Oct. 10, 1906, at 9:30 A. M.

Court convened pursuant to adjournment.

Present: Hon. ALFRED S. MOORE, Judge.
John H. Dunn, Clerk.
Angus McBride, Deputy Clerk.
H. M. Hoyt, U. S. Attorney.
Thos. C. Powell, U. S. Marshal.

Now, upon the convening of court the following proceedings were had:

* * * * * * *

No. 492—C.

UNITED STATES

vs.

LUDOVIC DALLAGIOVANNA.

Order Overruling Plea in Abatement and Demurrer.

Jas. W. Bell presented to the Court on behalf of each of the defendants above named a plea in abatement, which was overruled, and thereafter counsel presented a demurrer on behalf of each defendant above named, which demurrer was also overruled. Counsel on behalf of each defendant above named en-

tered a plea of not guilty to the crime charged in the indictment. Counsel for defendants served a copy of the plea in abatement in each case in open court upon United States Attorney H. M. Hoyt.

* * * * * * *

In the District Court for the District of Alaska, Second Division.

Term Minutes, Special September, 1906, Term Begun and Held at the Town of Nome, in Said District and Division, Sept. 24, 1906.

Tuesday, Oct. 16, 1906, at 10 A. M.

Court convened pursuant to adjournment.

Present: Hon. ALFRED S. MOORE, Judge.
John H. Dunn, Clerk.
Angus McBride, Deputy Clerk.
H. M. Hoyt, U. S. Attorney.
Thos. C. Powell, U. S. Marshal.

Now, upon the convening of Court the following proceedings were had:

* * * * * * *

No. 492-C.

UNITED STATES

vs.

LUDOVIC DALLAGIOVANNA.

Trial.

This case came regularly on for trial before the Court and a jury, the defendant being in court in person and represented by his attorneys, J. W. Bell and C. D. Murane, the Government being represented by U. S. Attorney H. M. Hoyt and Asst. U. S. Attorney W. N. Landers; case reported by Mrs. C. J. Nunne, stenographer.

The jury as impaneled and sworn to try the case was as follows: W. H. Tate, J. D. Helps, T. L. Morgan, E. T. Baldwin, D. B. Patterson, C. V. Morrison, Walford Carlson, Geo. James, J. Y. McCune, Robt. Horn, A. C. Schow, and Phil Ernst.

At 12:15 P. M. the jury was admonished and court adjourned until 2 P. M.

2 P. M.

* * * * * * *

No. 492-C.

UNITED STATES

vs.

LUDOVIC DALLAGIOVANNA.

Trial (Continued).

Trial resumed; jurors all present; defendant in court in person.

(All jurors not impaneled in this case excused until 9:30 A. M. to-morrow.)

Yvonne Laurdut was sworn and testified on behalf of the prosecution.

Plaintiff offered in evidence receipt by Jas. W. Bell for $75, rent for month of August, which was admitted and marked Plaintiff's Exhibit "A"; and thereafter Fay Moreland, Violet Cameron, John Sackett, Jas. W. Bell, W. J. Rowe and A. Z. Simmer were each sworn and testified on the part of the Government, and Yvonne Laurdot recalled after which plaintiff rests.

DEFENDANT'S CASE.

Jas. W. Bell moved the Court to direct the jury to return a verdict in favor of the defendant for reasons stated and taken down by the stenographer, which motion was overruled by the Court after argument.

Defendant offered in evidence the following exhibits, which were admitted and marked as follows:

Deed from Eva Dumont to Josephine Gonzalis, Sept. 21, 1900, marked Defendant's Exhibit No. 1.

Deed from Lucy Meyer to Josephine Gonzalis, Sept. 21, marked Defendant's Exhibit No. 2.

Petition for appointment of Leontine Gonzalis, as guardian of the estate of Josephine Gonzalis, marked Defendant's Exhibit No. 3.

Deed from W. N. Carter to Levantine Gonzalis, administrator of the estate of Josephine Gonzalis, an insane person, marked Defendant's Exhibit No. 5.

Trustee's deed from Porter J. Coston to Leontine Gonzalis, marked Defendant's Exhibit No. 6.

Thereafter Jas. W. Bell was recalled by defendant. On the cross-examination of this witness the plaintiff offered in evidence power of attorney of Leontine Gonzalis to Ludovic Dallagiovanna, admitted and marked Plaintiff's Exhibit B.

At 5 P. M. the jury was admonished and excused until 9:30 A. M. to-morrow.

In the District Court for the District of Alaska, Second Division.

Term Minutes, Special September, 1906, Term, Begun and Held at the Town of Nome, in Said District and Division, Sept. 24, 1906.

Wednesday, Oct. 17, 1906, at 9:30 A. M.

Court convened pursuant to adjournment.

Present: Hon. ALFRED S. MOORE, Judge.
John H. Dunn, Clerk.
Angus McBride, Deputy Clerk.
H. M. Hoyt, U. S. Attorney.
Thos. C. Powell, U. S. Marshal.

Now, upon the convening of court the following proceedings were had:

* * * * * *

No. 492-C.

UNITED STATES

vs.

LUDOVIC DALLAGIOVANNA.

Trial (Continued).

Trial resumed; jurors all present; the defendant in court in person.

A. C. Schow was sworn and testified on behalf of plaintiff in rebuttal, after which the testimony closed, and the case argued to the jury by respective counsel, and the jury instructed by the Court in writing, exceptions to which were taken in the presence of the jury and before they retired. At 11:20 A. M. the jury retired to consider of their verdict in charge of bailiffs Lawrence and Mitchell, who were first duly sworn, and Court adjourned until 2 P. M., subject to reconvene to receive the verdict of the jury.

No. 492-C.

UNITED STATES

vs.

LUDOVIC DALLAGIOVANNA.

Trial (Continued).

At 11:50 A. M. the jury came into open court, all being present, and through their foreman returned the following verdict:

"In the District Court for the District of Alaska, Second Division.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LUDOVIC DALLAGIOVANNA,
Defendant.

We, the jury, duly impaneled and sworn in the above-entitled cause, find the defendant Ludovic Dallagiovanna guilty as charged in the indictment.

Dated Nome, Alaska, October 17, 1906.

E. T. BALDWIN,
Foreman."

Verdict filed.

Jas. W. Bell, on behalf of the defendant, waived the statutory time for pronouncing sentence and asked that sentence be pronounced at this time; whereupon the Court sentenced the defendant as follows:

"The judgment of the Court is that you pay to the clerk of this Court for the use of the Government of the United States a fine of five hundred dollars, and that you be imprisoned in the Federal Jail for the period of two hundred and fifty days, or until the fine be satisfied; that is, in default of your paying the fine at once, you be imprisoned in jail for 250 days or until the fine be satisfied at the rate of $2.00 a day."

Upon motion of Jas. W. Bell a three days' stay was granted, and bond fixed at one thousand dollars, U. S. Attorney H. M. Hoyt assenting thereto.

In the District Court for the District of Alaska, Second Division.

No. 492-Crim.

UNITED STATES OF AMERICA

vs.

LUDOVIC DALLAGIOVANNA.

Judgment.

The above cause having come on for trial and the plea of the defendant of not guilty to the crime of keeping a bawdy-house having been duly entered with the clerk of the above-entitled court, and a jury having been impaneled and sworn, and the jury having heard the evidence, argument and instructions of the Court, and having retired for deliberation, rendered a verdict of guilty as charged in the indictment.

Now on this 17th day of October, 1906, it is ordered, adjudged and decreed that the said Ludovic Dallagiovanna pay to the United States of America the sum of five hundred dollars, and in default of the payment of said fine that he be imprisoned in the Federal Jail at Nome, Alaska, for the period of two

hundred and fifty days, and the said Ludovic Dallagiovanna is remanded to the custody of the United States Marshal for the Second Division of the District of Alaska, who is directed to execute the above sentence.

Done in open court this 17th day of October, 1906.

ALFRED S. MOORE,
District Judge.

[Endorsed]: No. 492-Crim. District Court, District of Alaska, Second Division. United States vs. Ludovic Dallagiovanna. Judgment. Filed in the Office of the Clerk of the Dist. Court of Alaska, Second Division, at Nome, Oct. 17, 1906. Jno. H. Dunn, Clerk.

In the District Court for the District of Alaska, Second Division.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LUDOVIC DALLAGIOVANNA,
Defendant.

Verdict.

We, the jury, duly impaneled and sworn in the above-entitled cause, find the defendant Ludovic Dallagiovanna guilty as charged in the indictment.

Dated, Nome, Alaska, October 17, 1906.

E. T. BALDWIN,
Foreman.

[Endorsed]: No. 492-Crim. District Court Alaska, Second Division. United States vs. Ludovic Dallagiovanna. Verdict. Filed in the Office of the Dist. Court of Alaska, Second Division, at Nome, Oct. 17. Jno. H. Dunn, Clerk.

In the District Court for the District of Alaska, Second Division.

UNITED STATES OF AMERICA

vs.

LUDOVIC DALLAGIOVANNA.

Instructions to the Jury.

Gentlemen of the Jury:

This is a criminal action in which the United States is plaintiff and Ludovic Dallagiovanna is defendant.

The indictment in this case, following the language of the statute, charges that Ludovic Dallagiovanna, on the 30th day of September, 1906, and within the District of Alaska, did wrongfully and unlawfully keep and set up a house of ill-fame, brothel and bawdy-house in the city of Nome, Alaska, for the purposes of prostitution, fornication and lewdness, the same being that certain apartment east of the westerly line thereof on lot 7, block 19, according to the townsite plat.

Under the indictment it is material and the Government must in order to convict prove beyond a reasonable doubt:

1. That within the District of Alaska, and on Sept. 30th, 1906, or at any time within two years preceding the finding of this indictment, that is, within two years prior to Oct. 6th, 1906, the defendant, Ludovic Dallagiovanna did keep and set up a house of ill-fame, brothel and bawdy-house in the city of Nome, Alaska, for the purposes of prostitution, fornication and lewdness, the same being that certain apartment east of the westerly line thereof on lot 7, block 19, according to the townsite plat.

The burden is upon the prosecution to prove beyond a reasonable doubt each and every material allegation in the indictment, and if it fails so to do, the defendant should be acquitted.

The Court is the judge of the law of the case, and it is your duty as jurors to take the law from the Court as laid down to you in these instructions. You, however, are the exclusive judges of the facts of the case.

You are the judges of the effect and value of all evidence addressed to you. In this connection, however, you are instructed that your power of judging the effect and value of evidence is not arbitrary but it is to be exercised by you with legal discretion and in subordination to the rules of evidence and of law.

There are certain other cardinal rules of evidence which it is made the duty of the Court to instruct you upon on all proper occasions, among which are:

1. You are not bound to find in conformity with the declarations of any number of witnesses, which do not produce conviction in your minds against a lesser number or against a presumption or other evidence satisfying your minds.

2. In determining the value to be given to the testimony of any one witness, you should take into consideration the interest, if any, he has in the event of the trial; the opportunities he has had to know the facts and circumstances to which he testifies; the probability or improbability of the story told, together with his conduct and general demeanor on the witness-stand.

3. You are instructed that the defendant is presumed by law to be innocent of the charge laid in the indictment, and that such presumption of innocence remains through the trial, and until he is proved guilty by competent evidence beyond a reasonable doubt.

Section 186 of the Criminal Code of Alaska declares:

That all persons concerned in the commission of a crime, whether it be felony or misdemeanor, and whether they directly commit the act constituting

the crime or aid and abet in its commission, though not present, are principals.

If, therefore, the evidence in this case should convince you beyond a reasonable doubt that the defendant did not actually reside in the district wherein the house of ill-fame referred to in the indictment, if any such house there is or was, was situate, or did not have control and actual dominion of such house so as to be the keeper of the house in the sense of conducting the house, yet if he as owner or agent of the owner aided and abetted the person or persons who did conduct said house, if any, by knowingly furnishing the actual keeper with a place for the conducting of a house of prostitution, he may in contemplation of the law be guilty of the crime of keeping or setting up a bawdy-house and if so you should not hesitate to find him guilty.

The defendant in this case is charged by the indictment with the offense of having kept or set up a house of ill-fame or bawdy-house for the purpose of prostitution, fornication or lewdness. In order to find the defendant guilty of this offense, it is not necessary that he should be in the actual possession of the house, or living therein, or exercising such particular control over it as does the keeper of a hotel or lodging-house ordinarily, or as does the head of a family over his domicile; all that is necessary to constitute the defendant the keeper of the house, is evi-

dence beyond a reasonable doubt that he had control over the renting of the house or of the management of the property for the purposes of revenue, and that he could have prevented its use for immoral purposes, and while so under his control it was actually used for purposes of prostitution, fornication or lewdness, and that he had knowledge of such use; therefore, if you find from the evidence beyond a reasonable doubt, that the house in question was used for the purposes of prostitution, fornication or lewdness, or in other words was a house of ill-fame, and that the defendant either was the owner thereof or was the attorney in fact of the owner or was the owner's agent in any form for the purpose of letting the premises and that while he was in such control thereof the house was actually used by the lessee thereof for a bawdy-house or house of ill-fame and that he had knowledge thereof, then you must find the defendant guilty as charged in the indictment.

The jury are instructed that in all prosecutions for the offense of keeping a bawdy-house, common fame is competent evidence in support of the indictment as to the character of the house. Therefore, if the house has a reputation of being a bawdy-house or house of ill-fame beyond a reasonable doubt, that is sufficient to support a finding that it was such, if there is no evidence offered to the contrary. The jury can take into consideration in deciding whether

it is or is not a house of ill-fame not only the oral testimony as to its character, but also the physical facts adduced in the testimony as to the situation of the house with reference to other houses of prostitution or ill-fame if any, the character of the inmates, if any testimony has been given in regard thereto, the region in which the house is situated, if any testimony has been brought out tending to prove that there is a region or district chiefly inhabited by prostitutes or given over to purposes of prostitution, and that the house in question is situated therein, or with reference to the character of the people chiefly inhabiting the district where the house is situated. And still stronger evidence, if any such there be, would be the direct, uncontradicted testimony of any witness or witnesses that the house is in fact a house of ill-fame or a house of prostitution.

You are instructed that it is not necessary to demonstrate to a mathematical certainty that the defendant had knowledge of the use to which the house was put by the occupier thereof; that degree of certainty which ordinarily moves men to act in the ordinary affairs of life is sufficient, where such degree of certainty leaves no reasonable doubt in your minds. Therefore if you find from the evidence, beyond a reasonable doubt that the house in question was located in a section of the community generally occupied by prostitutes, or that it was in a locality generally given

over to occupation by prostitutes, or that it was in a section of the community demarked or separated by a barrier, fence or other artificial boundary, from other sections of the community, within which demarked territory prostitution was generally carried on, and which demarked or separated territory was occupied generally by prostitutes, and that the house was let to a woman or women, within such demarked or separated territory, and that at or during the time while the defendant had dominion over the house either as owner, agent or attorney in fact of the owner, then the jury would be fully justified in finding that the defendant had knowledge of the use to which the house was put.

The jury are instructed that prostitution is an offense denounced by the law, and this jury is sworn to uphold and enforce the law; no matter, therefore, what may be the individual opinion of any juror or jurors as to whether or not the law on this subject is correct and wise, and no matter what sympathy, if any, any juror or jurors may have for this unfortunate class of people commonly designated as prostitutes (and surely no juror has any sympathy for those who pander to such vices or live off the earnings of prostitutes, either directly or indirectly), sympathy or personal feeling should have no weight with any juror, but each juror should honestly, as a man, and under his oath decide this case upon the evidence before him as guided by these instructions.

The jury are instructed that a reasonable doubt is a doubt arising from the evidence or lack of evidence in the case, and must be reasonable and not frivolous. It must not be a mere conjecture, and the jury are bound by their oaths not to go outside of the evidence to hunt up a doubt or an excuse which they may choose to call about for the purpose of avoiding the performance of what may be to them a disagreeable duty, and they are as much bound by their oaths not to do this as they are bound by their oaths as honest men to render a fair and impartial verdict, without fear of any man and with favor to none; and therefore, as honest men, and as oath-bound jurors the jury should not fail to find a verdict because of the doubt of the defendant's guilt under the testimony and under these instructions, unless it be a doubt arising either from the evidence before you, or from some lack of evidence and for which doubt a good reason can be given to your consciences and to your fellow jurors.

I hand you herewith two forms of verdict. After you have retired, you will select one of your number as foreman, and after having arrived at a verdict, you will sign by the hand of your foreman the one which conforms to the decision reached by you, and return the same to the Court as your verdict in this case.

You may take with you the indictment, the exhibits, and these instructions.

Let the bailiffs be sworn. You may now retire, gentlemen, to deliberate upon your verdict.

ALFRED S. MOORE,
District Judge.

Nome, Alaska, October 16, 1906.

[Endorsed]: No. 492-Crim. In the District Court, District of Alaska, Second Division. U. S. vs. Ludovic Dallagiovanna. Instructions to the Jury. Filed in the Office of the Clerk of the Dist. Court of Alaska, Second Division, at Nome. Oct. 17, 1906. Jno. H. Dunn, Clerk. By ————, Deputy. McB.

In the United States District Court in and for the District of Alaska, Second Division.

Criminal—No. 492.

UNITED STATES OF AMERICA,
Plaintiff,

vs.

LUDOVIC DALLAGIOVANNA,
Defendant.

Bill of Exceptions.

This cause came on regularly for trial on Tuesday, the 16th day of October, A. D. 1906, at ten o'clock of said day in the above-entitled court at a special term thereof, before the Honorable Alfred S. Moore, Judge of said Court, sitting with a jury; the Government appearing by U. S. District Attorney Henry M.

Hoyt, and Mr. W. N. Landers, Assistant U. S. District Attorney, and the defendant appearing in person with his attorneys Mr. James M. Bell and Mr. C. D. Murane, and a jury having been regularly called, examined, sworn and impaneled to try said cause.

Thereupon, the following testimony was taken and proceedings had, to wit:

After the opening statement upon part of the plaintiff and defendant, YVONNE LAURENT, a witness on behalf of the plaintiff having been duly sworn, examined by Mr. W. N. Landers, testified as follows:

My name is Yvonne Laurent; I live in Nome this summer; it is the first time I am in Nome, this summer, and I don't know what you call the street where I live; it is the alley, is all what I know; I don't know where the Eagle saloon is; I live back of Front street in the row of houses that is back there on what you call the alley, or the big board fence what is back there.

Q. Who lives in the house next to the east of you?

Mr. BELL.—That is objected to on behalf of the defendant upon the ground that it is not shown that the witness knows; it is immaterial, irrelevant and incompetent, and is not binding upon this defendant in any way, nor does not tend to prove any issue in this case.

The COURT.—Objection overruled.

(Testimony of Yvonne Laurent.)

To which ruling the defendant excepts and the exception was duly allowed and made a part of this bill of exceptions.

A. I don't know; I could not tell you; I don't know which is east.

Q. This is east (indicating points of compass to witness); this is west—now who ives to the eastward of you in the house next to you?

Mr. BELL.—Same objection.

The COURT.—Overruled; to which ruling the defendant excepts, and the exception is duly allowed by the Court and made a part of this bill of exceptions.

A. It is a girl named Du Bose—Violet Dubose; she lives in the house next to me that way (indicating east).

Q. What is Violet's last name?

A. I don't know; Violet—is all I know.

Q. Who lives in the house to the westward of you, the next house?

A. Well, it is a girl by the name of Fay, that is all I know.

(At request of Mr. Landers, Violet and Fay stood up and witness stated that those were the girls she had reference to as living one to the east and the other to the westward and adjoining her house.)

(Testimony of Yvonne Laurent.)

(Witness continuing, testified:) When I come in town I went to live in that house, in June of this year; I never was in town before; I move into that house as soon as I came into town; I don't know who I rented from; I had a friend here in Nome and she told me to move into this house in the alley; my friend is not here in Nome any more now; her name was something—I don't know her last name; she was called Eva; she lived to the left-hand side of me; my house is facing towards the Bering Sea and towards Front street, and behind the fence; Violet lives four or five houses to the east of me.

Q. Who was the first person you saw about renting this house?

Mr. BELL.—Objected to as incompetent, irrelevant and immaterial, and as not tending to establish any fact in this case.

The COURT.—Objection overruled; to which ruling the defendant excepted, and the exception was by the Court duly allowed.

A. There was a friend of mine she told me my house is rented already; she told me to go live in that house; she is not there any more. I didn't see anybody about renting the house only my friend, I had a friend here at Nome and she told me when I come into Nome she had a place for me and I go there.

(Testimony of Yvonne Laurent.)

Q. Did your friend make arrangements for you to live in this house?

Mr. BELL.—Objected to as calling for hearsay evidence.

The COURT.—Overruled.

To which ruling the defendant excepted, and the exception was by the Court duly allowed.

A. I don't know.

Q. From whom did you get the authority to move into this house? A. From my friend.

Q. You mean that your woman friend gave you the authority to move into this house?

A. Well, she say the rent was paid and I can go and live in her place; she have a place already for me.

Q. Who paid the rent? A. I paid it.

Mr. BELL.—Objected to, and move that the answer be stricken out until I can make my objection.

The COURT.—Strike it out.

Mr. BELL.—Object to the question on the ground because it is incompetent, irrelevant and immaterial and is in no way shown to be connected with the defendant.

The COURT.—Objection overruled.

To which ruling the defendant then and there ex-

(Testimony of Yvonne Laurent.)

cepted, and the exception was allowed by the Court and made a part of this bill of exceptions.

Q. Who did you pay the rent to?

A. I paid it when I come in.

Q. Who did you pay it to?

A. I paid it my rent several months—

Q. Answer the question to whom did you pay the rent? A. To the lawyer.

Q. What lawyer? A. Jim Bell.

Q. Mr. Bell here? A. Yes.

Q. This man here? A. Yes.

Q. How did you know that Mr. Bell had the renting of that property?

Mr. BELL.—Object to the question on behalf of the defendant on the ground that it is irrelevant, immaterial and incompetent, and in no way tending to bind this defendant.

The COURT.—Objection overruled.

To which ruling the defendant excepts and the exception was duly allowed by the Court.

Q. Did anyone tell you to go to see him about the renting of these premises?

Mr. BELL.—Objected to by defendant because it is incompetent, irrelevant and immaterial, and in no way binding upon this defendant; as wholly disconnected with the premises in question so far as the evi-

(Testimony of Yvonne Laurent.)

dence thus far has gone, and does not tend to prove or disprove any of the issues in this case.

The COURT.—Objection overruled.

To which ruling the defendant excepted and the Court duly allowed said exception.

A. No, excuse me—

Q. How did you know that he had the renting of the house? A. I go to see him myself.

Q. Well, how did you know about going to see him about renting the house?

A. Well, I know about it before, I guess.

Q. How did you know—who told you to go see him?

Mr. BELL.—Same objection as to the last preceding question.

The COURT.—Overruled.

To which ruling defendant excepts, and the exception was by the Court duly allowed.

A. Why, I don't know, my lady friend; it was rented for me by my lady friend before I come here.

Q. What was her name? A. Violet.

Q. Violet Deschon?

A. I don't know her last name—Iguess so.

Q. Did you go up to see Mr. Bell about the renting of this house?

(Testimony of Yvonne Laurent.)

Mr. BELL.—Objected to as immaterial and in no way connected with this defendant, and irrelevant.

The COURT.—Overruled.

To which ruling the defendant excepted, and the exception was duly allowed.

A. The next months that I paid—

Q. Did you go up to see Mr. Bell after you arrived in town about the renting of this house?

Mr. BELL.—Same objection.

The COURT.—Same ruling.

To which ruling the defendant then and there duly excepted, and the exception was allowed by the Court.

A. Well, the months what I come in was paid, was paid by my lady friend, and when I come to Nome I go to live there where she has already paid the rent for.

Q. The first month your friend had paid for?

A. Yes, I made up the rent to her when I come here and next money I paid to Mr. Bell.

Q. When the next month was due you paid the rent to whom? A. To Mr. Bell, the lawyer.

Q. What lawyer? A. Jim Bell, I guess.

Q. How much did you pay him?

A. Seventy-five dollars.

Q. Is this house furnished?

(Testimony of Yvonne Laurent.)

A. Well, there is just a bed in it; I furnish the rest.

Q. You have paid seventy-five dollars for each month? A. Yes, sir.

Q. How long have you contracted to live in there?

A. Well, until I go.

Q. When do you go?

A. Well, I don't know when I will go.

Q. You have paid the rent until you go?

A. Yes.

Q. And you have been there in that house ever since you came to Nome? A. Yes.

Q. To whom have you been paying your rent since you came in here? A. To Jim Bell.

(Paper handed witness.)

Q. Have you ever seen that paper before?

A. Yes.

Q. What is this paper?

Mr. BELL.—Objected to because the paper speaks for itself.

A. Well, that is the receipt when I pay my rent.

Mr. BELL.—We ask that the answer be stricken out until the Court has ruled upon my objection, and ask the Court to instruct the witness not to answer when an objection is made until the Court has passed upon it.

(Testimony of Yvonne Laurent.)

The COURT.—Well, it may stand now and the objection will be overruled.

To which ruling the defendant excepted, and the exception was by the Court duly allowed.

Q. Is this what you got when you paid your rent?

Mr. BELL.—Objected to because the receipt speaks for itself.

The COURT.—Objection overruled.

Mr. LANDERS.—We offer this paper writing in evidence, if the Court please.

Mr. BELL.—Defendant objects to the introduction of the paper writing in evidence, if the Court please, for the reason that it is incompetent, irrelevant, and immaterial, and in no way tending to prove that the defendant in this case ever kept up or set up a house for the purposes alleged in the indictment.

The COURT.—Objection overruled and paper admitted.

To which ruling the defendant excepted, and the exception was duly allowed by the Court.

(Paper referred to received in evidence, marked by the clerk as Plaintiff's Exhibit "A," and read to the jury, as follows:)

(Testimony of Yvonne Laurent.)

Plaintiff's Exhibit "A."

Nome, Alaska, August 10th, 1906.

Received of Yvonne Seventy-five dollars as rent of Ludovic's cabin for the month beginning this day and ending September 10th, 1906.

(Signed) JAS. T. BELL.

[Endorsed]: No. 492-Crim. United States v. Ludovic Dallagiovana. Pltff.'s Exhibit "A." Oct. 16, 1906. A. McB. Filed in the Office of the Clerk of the Dist. Court, Second Division of Alaska, at Nome. Oct. 16, 1906. Jno. H. Dunn, Clerk.

Q. Is that the same cabin that you have been occupying since you came in here? A. Yes, sir.

Q. Fay lives on the one side of you and Violet on the other? A. Yes.

Mr. BELL.—Now, if the Court please, defendant moves to strike out this paper writing upon the ground that it is incompetent, irrelevant and immaterial, and there is no testimony to show that the person who signed this paper writing had any authority to receive this rent.

The COURT.—Well, they have to prove their case step by step, I suppose—

Mr. HOYT.—We promise to connect it up, if the Court please.

(Testimony of Fay Moreland.)

The COURT.—Motion overruled.

To which ruling the defendant excepted, and the exception was duly allowed.

Q. Have you your name on the door of this cabin?

A. Yvonne.

Q. Yvonne? A. That is my name.

Mr. LANDERS.—Take the witness.

Mr. BELL.—No cross-examination.

(Testimony of Yvonne Laurent closed.)

FAY MORELAND, a witness on behalf of the Government, was called and duly sworn, and in answer to questions propounded by Assistant District Attorney Mr. Landers, testified:

My name is Fay Moreland; I live back of the stockade, in Nome. My business is that of prostitution.

Mr. BELL.—I object to the question and move to strike out the answer of the witness on the ground that the question is incompetent, irrelevant and immaterial, and not binding upon the defendant in this case.

The COURT.—Objection overruled.

To which ruling the defendant excepted and the exception was by the Court duly allowed.

(Testimony of Fay Moreland.)

(Witness testified as follows:) I know where Yvonne lives; she lives in the house next to me—I live in the first house west of Yvonne's house.

Q. Do you know what that place is used for?

Mr. BELL.—Objected to as irrelevant, incompetent and immaterial.

The COURT.—Overruled.

To which ruling the defendant excepted and the exception was duly allowed.

A. No, I never watched her to know what her business is.

Q. Do you know what her general reputation is?

A. Yes, I guess I know what her general reputation is.

Q. What is it? A. Prostitution, I think.

Q. Now, Fay, where is your house with reference to the corner?

A. The fourth door from the corner, back of the Northern saloon, eastward of the corner.

Q. Do you know all the girls that live in that row of houses alongside of your house?

Mr. BELL.—That is objected to as immaterial, irrelevant and incompetent and not shown to have any connection with the defendant nor the premises described in this complaint, as to where the other girls live who are not concerned in this case, and not con-

(Testimony of Fay Moreland.)

nected with the particular property alleged in this indictment.

The COURT.—Where some of the other girls live, unless—I don't think would give much color unless it were confined to this particular block or locality.

Mr. HOYT.—We will confine it to this particular locality and block. The purpose is to show the general reputation of the rest of the women living in this locality.

The COURT.—Objection overruled.

To which ruling defendants excepted and the exception was then and there duly allowed.

A. Why, no, I don't know all of the girls, no.

Q. Do you know who lives in the corner house?

Mr. BELL.—Objected to for the same reasons.

Q. I mean the corner immediately back of the Northern saloon?

Mr. BELL.—Same objection. Incompetent, irrelevant and immaterial, and not binding upon this defendant.

The COURT.—Objection overruled.

To which ruling the defendant saved an exception which exception was duly allowed by the Court.

A. Why, a girl named Fanny—no, Bertha, I guess lives in the corner.

(Testimony of Fay Moreland.)

Q. And in the next house to the west—who lives in there?

Mr. BELL.—Same objection.

The COURT.—Same ruling.

To which ruling defendant excepted and the Court then and there duly allowed the exception.

A. Why, Mamie.

Q. And in the next one?

Mr. BELL.—Same objection.

The COURT.—Overruled.

To which ruling defendant duly excepted and the exception was allowed by the Court.

A. Myself.

Q. And the next one?

Mr. BELL.—Same objection.

The COURT.—Overruled.

To which ruling defendant duly excepted and the exception was by the Court allowed.

A. Violet lives next.

Mr. LANDERS.—You may cross-examine.

Mr. BELL.—No questions.

(Testimony of Fay Moreland closed.)

VIOLET CAMERON, a witness on behalf of the Government, was called and duly sworn, and in answer to questions propounded by Assistant U. S. District Attorney Landers, testified as follows:

My name is Violet Cameron; I live behind the stockade; I know Yvonne; I live in the house to the east of Yvonne; the first door to the east of Yvonne.

Q. How many houses are there between your house and the corner directly behind the Northern saloon?

Mr. BELL.—Objected to on behalf of the defendant on the ground that the same is immaterial, irrelevant and incompetent.

The COURT.—Objection overruled.

To which ruling the defendant excepted and the exception was duly by the Court allowed.

A. The fifth, I think; the fifth or sixth.

Q. What is your business?

Mr. BELL.—That is objected to as incompetent, irrelevant and immaterial and not binding upon this defendant, and ask the Court to instruct the witness that she need not answer unless she desires to do so, as the answer might tend to incriminate herself.

The COURT.—Objection overruled.

Mr. BELL.—I would ask the Court to instruct the witness.

(Testimony of Violet Cameron.)

The COURT.—No, we won't instruct her now; objection overruled; answer the question.

To which ruling the defendant excepted and the exception was duly allowed.

A. Prostitution.

Q. Do you know the general reputation of the business carried on in the houses occupied in this locality?

Mr. BELL.—Objected to as incompetent, irrelevant and immaterial and not confined to the house specifically alleged in this indictment, and is therefore not binding upon this defendant in any manner.

The COURT.—Objection overruled.

Mr. BELL.—Defendant excepts and the exception was by the Court duly allowed.

Q. Do you know the reputation of the business carried on in the house occupied by the woman—Yvonne? A. The same thing—same thing.

Q. Prostitution? A. Yes.

Mr. BELL.—I move to strike out the answer of the witness as incompetent, irrelevant and immaterial, and binding upon this defendant, testimony of general reputation not being competent evidence upon the indictment alleged and set up in this case.

Mr. HOYT.—I am willing, if the Court please, to have the testimony of the witness as to what her

(Testimony of Violet Cameron.)

business is stricken out, but object to striking out the testimony of what the business of the girl Yvonne is. I am willing to have the other part of the answer stricken out.

The COURT.—The testimony as to her own business is stricken out. We don't strike the balance out; it goes to show the general character of the neighborhood; that is about all.

Mr. HOYT.—The statute makes reputation of the general character under this specific charge competent evidence, if the Court please.

Take the witness.

Mr. BELL.—No questions.

(Testimony of Violet Cameron closed.)

JOHN SACKETT, a witness on behalf of the Government, being duly called, examined and sworn, in response to questions propounded by Assistant District Attorney Landers, testified as follows:

My name is John Sackett; at the present time my business is that of a police officer in Nome; I have been a police office in Nome off and on since 1902; I was a police officer on the 30th of September, 1906; on September 15th, 1905, I was mining; I am acquainted with the defendant Ludovic Dallagiovanna; I have known Ludovic ever since I have been

(Testimony of John Sackett.)

in Nome, for four or five years; I know the girl Yvonne; I know where she lives; have known her for the past three months; I know the general reputation of the house occupied by Yvonne; it is that of a house of prostitution.

Q. Have you ever seen the defendant Ludovic Giovanna in this neighborhood in which this house is situated?

Mr. BELL.—Objected to as irrelevant, incompetent and immaterial whether or not he has ever seen him in the neighborhood of these premises.

Mr. HOYT.—This is preliminary to another question fixing the time and circumstances. We will add to the question "in the month of September, 1905."

The COURT.—Overruled.

To which ruling the defendant excepted and the exception was allowed.

A. I have, yes, sir. This was right after the fire.

Q. What was he doing?

Mr. BELL.—Objected to as irrelevant, incompetent and immaterial what he was doing unless it tends to show that he set up and kept a house for the purposes alleged in the indictment.

The COURT.—Overruled. We don't know exactly what is coming, but if not proper we can strike it out.

(Testimony of John Sackett.)

To which ruling the defendant excepts and the exception was by the Court allowed.

A. Well, I have never seen him back there except this time right after the fire.

Q. What was he doing?

Mr. BELL.—Objected to as incompetent, irrelevant and immaterial, and in no way tending to show that he set up or kept the kind of a house alleged in the indictment.

The COURT.—I don't like to ask the District Attorney to state the purpose of the question and at this time we overrule the objection until we see what is coming.

Mr. HOYT.—We will connect it, if the Court, please.

A. He was fixing up a cabin back there.

Mr. BELL.—Now, if the Court please, we move to strike out the answer of the witness as wholly incompetent, irrelevant and immaterial and in no way tending to show that the defendant set up or kept the house alleged in the indictment in this case.

The COURT.—Motion overruled.

To which the defendant excepts and the exception was allowed.

Q. You say he was working on this house?

(Testimony of John Sackett.)

A. Yes.

Q. State whether or not that is the same house that is now occupied by Yvonne.

A. Well, yes, I think it is the same one as this French girl, Yvonne lives in now; it is the same cabin, after the fire.

Q. Did you have any conversation with Ludovic at that time? A. Yes, I did.

Q. Relative to this house? A. Yes.

Q. State what that conversation was.

A. Well, I says to Ludovic, I says, "How much did you lose by the fire, Ludovic?"

Mr. BELL.—Objected to as incompetent, irrelevant and immaterial and not tending to prove or disprove any of the issues in this case, or tending to show that the defendant kept the kind of a house alleged in this indictment. We make the further objection, if the Court please, that this witness' name does not appear upon the indictment as one of the witnesses who appeared before the grand jury.

The COURT.—Overruled.

To which ruling the defendant duly excepted and the exception was allowed by the Court.

Q. Go on and state the conversation.

A. Well, Ludovic was working on a cabin back there—Billy Rowe was there at the time, a teamster

(Testimony of John Sackett.)

here, and I asked Ludovic how much did you lose by the fire, and he said about fifteen hundred dollars; he said that he could have sold all of his cribs he had there for fifteen hundred dollars three weeks ago. I said, "I am very sorry—too bad you lost the money," or something to that effect.

Mr. BELL.—Now, I move to strike out the answer of the witness because it in no way tends to prove that the defendant set up or kept the kind of a house alleged in the indictment.

The COURT.—It rather proves that he had cribs before, or rather was the owner of cribs behind the stockade before. Is that what you wish to prove?

Mr. LANDERS.—Yes, your Honor.

The COURT.—Motion overruled.

To which ruling the defendant excepts and the exception was by the court duly allowed.

Q. Did he ever admit to you that he rented this house?

Mr. BELL.—Objected to by defendant on the ground that it is leading, together with the last preceding objections.

Q. Did he ever admit that the house he was working on at the time was his house or that he owned this house?

(Testimony of John Sackett.)

Mr. BELL.—Same objection, if the Court please.

The COURT.—Overruled.

To which ruling the defendant excepted and the exception was allowed by the Court.

A. Yes, this is a house he owned, or one of the houses that he owned.

Q. You say that Billy Rowe was there at that time?

A. Yes, Billy Rowe was there also moving the house or working on the house, some way.

Mr. LANDERS.—Take the witness.

Thereupon, being cross-examined on behalf of the defendant, in answer to questions by Mr. Bell, the witness testified as follows:

Q. You don't know whether he owns that house or not, do you, Mr. Sackett?

A. No, I don't know only what he told me.

Q. That is all you know, what you have told here? A. That is all, yes.

Q. (By the COURT.) Did he say he owned the house?

A. Well, he was working on the house and I asked him how much he had lost by the fire; anyway, he said that he had lost about fifteen hundred dollars

(Testimony of John Sackett.)

because he said, "I could have sold my cribs here three weeks ago for fifteen hundred dollars."

Q. (By Mr. BELL.) This was along about what period?

A. This was after the fire; right after the fire when he was building up some of these cribs.

Q. Was that the crib that stood there before the fire? A. Oh, no, no; that crib burnt up.

Now, we move to strike out the answers of the witness as incompetent, irrelevant and immaterial because it is not connected with this house in any way, and is not binding upon this defendant nor tends to prove any of the allegations in this complaint.

Q. (By the COURT.) You say this crib was burnt out after the fire—

A. The crib I am speaking of where Ludovic was working, that was where one of the cribs was that was burnt out—it was the only house standing in the block, this one that the woman Lizette lives in; she goes by the name of Lizette now; she used to go by the name of Yvonne.

Q. (By Mr. BELL.) Did you see the defendant building this particular crib?

A. I saw him working on them.

(Testimony of John Sackett.)

Q. And is that the only time that you ever saw him back there?

A. That is the only time I ever noticed him on the alley back there.

Q. As a matter of fact he has not been in town here for about a year, has he, or about right after the fire here in Nome?

A. He went out that fall, was out that winter I believe, right after the fire.

Q. Went out shortly after the fire, did he not?

A. I think he did; I don't know; I know he just come in a short time ago.

Q. This house which he put up was not occupied last fall after he went out, was it, after the fire?

A. I was not around there much last fall.

Mr. HOYT.—Objected to on the ground that it is incompetent and not proper cross-examination.

A. I was out to the mines all winter, last winter, and was not around much.

Q. Well, don't you know that to be a fact, that that house was not occupied all winter?

A. No, I don't know anything about it.

Q. Were you around there in that vicinity last winter?

A. No, I was not around Nome last winter at all.

Q. You were not? A. No.

(Testimony of John Sackett.)

Q. Were not around there at any time after the fire?

A. Immediately after the fire, yes.

Q. You know it was not occupied then, don't you? A. Well, he was working on the cribs.

Q. But the houses were not occupied, were they?

A. No, they were not evidently.

Q. (By the COURT.) About what time was this that you say you saw Billy Rowe working there? I didn't catch that.

A. It was a day or two after the fire which occurred last fall.

Q. A day or two after the fire?

A. Immediately after the fire; yes, sir.

(Testimony of Mr. Sackett closed.)

Mr. JAMES BELL, called as a witness on behalf of the Government, and being duly sworn and examined by Mr. United States Attorney Hoyt, testified as follows:

(Paper handed witness.)

Q. I hand you Plaintiff's Exhibit "A," and ask you if that is your signature?

A. Yes, it is.

Q. I will ask you if you received the seventy-five dollars mentioned in this paper as rent for the month

(Testimony of James Bell.)

commencing August 10th and ending September 10th, 1906, as therein described? A. I did.

Mr. MURANE.—I desire that the answer of the witness be stricken out until I can have an opportunity to state my objections.

The COURT.—Yes, the answer may be withdrawn for the present.

Mr. MURANE.—Object to the question for the reason that it is irrelevant and immaterial, and not tending in any manner to show that the defendant had anything to do with the giving of this receipt, and for the further reason that if the witness desires he need not answer the question and may claim his privilege, and would like the Court to instruct the witness that he need not answer the question being in the nature of a privileged communication between himself and client.

The COURT.—I take it Mr. Bell knows his privileges if he wishes to claim them.

The WITNESS.—I don't care to claim any privilege; would just as soon answer as not after the Court rules.

The COURT.—Objection overruled.

To which ruling the defendant excepted and the exception was by the Court duly allowed.

(Testimony of James Bell.)

A. I did.

Q. In what capacity did you receive it?

A. I received it as the agent.

Q. For whom?

A. At that time I was acting for Ludovic Dallagiovanna.

Q. The defendant in this case?

A. Yes.

Q. Under instructions from Ludovic Dallagiovanna? A. Yes.

Q. When did he give you those instructions?

A. Well, when he went out last fall, in the fall of 1905, I had some legal business for him in this court, and he asked me to look after several cabins and I agreed to do so; that practically is the only instructions he gave me.

Q. He described this particular cabin to you, did he?

A. He gave me the numbers of the cabins.

Q. Would you know where the property was?

A. Yes.

Q. Do you know this lot where this house is situated?

A. Well, I know it only from reference to the map or townsite plat and relatively to other places in that neighborhood.

Q. What lot in the townsite of Nome is it?

(Testimony of James Bell.)

A. Well, lot No. 17 in Block No. 19.

Q. Is it the northerly or southerly portion of that lot?

A. I think it is the southerly portion.

Q. The southerly half?

A. Well, I don't know whether it covers the southerly half of the lot or not.

Q. Now, with reference to the side line of Block No. 19 where would this cabin be situated as to being on the westerly line?

A. It would be about in here (referring to plat).

Q. The first house east of the westerly side line?

A. Yes.

Mr. MURANE.—I object to the use of this plat or map until the same is offered in evidence, or in some manner proven.

Mr. HOYT.—If your Honor please, I do not intend to offer this map or plat in evidence but only desire to use the same for illustrative purposes.

Q. Now, with reference to this line here which house would it be, if you know? (Referring to plat or map in hands of the United States District Attorney.)

The COURT.—I think the witness can sufficiently identify the situation without the use of this map.

Q. Now, with reference to the time when Mr.

(Testimony of James Bell.)

Ludovic returned here this spring, did you have any settlement with him?

Mr. MURANE.—Objected to as irrelevant and immaterial.

The COURT.—Overruled.

To which ruling the defendant then and there excepted and the exception was duly allowed by the Court.

A. Mr. Ludovic did not return this spring; he never returned until this fall.

Q. Well, at what time did he return?

A. Sometime in September, I think.

Q. Then did you settle your accounts with him?

A. I did.

Q. Did you explain to him what the rent had been received for, for the rent of what premises?

Mr. MURANE.—Objected to as irrelevant, incompetent and immaterial, and not binding upon this defendant.

The COURT.—Objection overruled.

To which ruling defendant excepted and the exception was duly allowed by the Court.

A. I rendered him a statement.

Q. What did that statement include?

A. The statement included moneys I had paid out for him during the litigation in this court and moneys

(Testimony of James Bell.)

I had paid out for him for making surveys of a mining claim out here on Bourbon creek and moneys received from the rent of these cabins, and also my charges in connection with what matters I had been looking after for him.

Q. Did you explain to him who his tenants were?

Mr. MURANE.—Objected to as irrelevant, incompetent and immaterial and not binding upon the defendant.

The COURT.—Objection overruled.

To which ruling the defendant then and there duly excepted which exception was allowed by the Court.

A. I don't think I did.

Q. You don't think you did? A. No, sir.

Q. You explained to him what premises the rent had come from, did you not?

A. Well, I don't even think that was done, either.

Q. Did your statement to him show that?

A. The statement simply showed the money received on account of rent; that was all.

Q. And from what person it was received, did it show that? A. Yes, I think so.

Q. That is all the property that he had for rent?

A. That is all that I had any connection with.

Q. Was that all he authorized you to collect the rent from? A. Yes.

(Testimony of James Bell.)

Q. Now, when he turned over this property for you to rent, or rather to lease and collect the rents from, how did he describe it to you?

A. Well, I think he said he had two cabins and took me and showed me where the cabins were.

Q. Was there a fence built around that place at that time? A. There was.

Q. Was there anything said between you and him as to the purpose for which the property should be used? A. Nothing whatever.

Q. Were they at that time occupied?

A. When he went out last fall the cabins—the property was not occupied.

Q. When was the property first occupied to your knowledge?

A. The property, the one that he is now being indicted for, I think one part of it was occupied, and that the people moved in there sometime in November of last year.

Q. After the last boats went out?

A. No, sir, I think the boats had not yet all gone out; I am not sure, however, about that.

Q. Did you collect the rents from this cabin during last winter?

A. I did not all winter; I collected some rents last winter during part of the winter, I think.

(Testimony of James Bell.)

Q. You accounted to him for that money at the same time, did you, when he returned this year?

A. I did.

Q. Now, did he fix the price at which you should rent these cabins?

A. Well, he did in a way, but he allowed me a great deal of latitude.

Q. How much rent did he say he expected to get out of the property?

Mr. MURANE.—Objected to as immaterial and irrelevant and assuming something not proved.

The COURT.—Objection overruled.

To which ruling the defendant excepted, which exception was by the Court allowed.

A. Well(he said one of the cabins he thought should bring seventy-five dollars a month, and the other one seventy-five dollars if I could get it; if not, less.

Q. Did you come up to his expectations in that regard?

Mr. MURANE.—Objected to as irrelevant, immaterial and incompetent and not binding in any way upon the defendant.

The COURT.—Objection overruled.

To which ruling the defendant excepted and the exception was by the Court duly allowed.

(Testimony of James Bell.)

A. I did not.

Q. You did not realize as much as he expected out of them? A. Not during the winter.

Q. Not during the winter? But you did during the summer, didn't you?

A. I think I did, yes, sir.

Q. Now, Mr. Bell, you terminated your employment in the capacity of collecting these rents sometime this last summer, did you not?

Mr. MURANE.—Objected to as wholly irrelevant, incompetent and immaterial and not binding upon this defendant, what this witness did in that regard.

The COURT.—Objection overruled.

To which ruling the defendant then and there duly excepted, which exception was by the Court then and there allowed.

A. When he came in I had a settlement with him and told him that I didn't care to look after the property any further; it was a great deal of bother to me.

Q. You declined to look after this business for him any more?

A. I asked him to get some one else.

Q. Do you know whether he got anybody else?

A. I do not.

Q. And is it not a fact that you turned the property back to him at that time?

(Testimony of James Bell.)

A. I had a settlement with him, yes.

Q. And you turned the property over to him and said you didn't care to look after it any more for him?

A. I don't think I turned the property over to him; I simpy told him that I didn't care to look after that end of his business any longer.

Q. Mr. Bell, do you know the reputation of the houses in question?

Mr. MURANE.—That is objected to as irrelevant. immaterial and wholly incompetent, what the repu tation of the house in question is, and not sufficient to sustain the charge alleged in this indictment.

The COURT.—Overruled.

To which ruling the defendant excepts and the exception was duly allowed by the Court.

A. By common repute I do.

Q. What is it?

Mr. MURANE.—Same objection.

The COURT.—Overruled.

To which ruling the defendant excepted and the exception was by the Court allowed.

A. Well, it is a house of ill-fame.

Q. Now, have you ever at any time within the past year or since you have accepted the agency for

(Testimony of James Bell.)

the collecting of this rent at any time discussed with Mr. Ludovic the character of the business that is carried on in that house?

Mr. MURANE.—That is objected to by the defendant on the grounds that it is wholly irrelevant, incompetent and immaterial, and not binding upon this defendant, what this witness may have told him.

The COURT.—Objection overruled.

To which ruling the defendant duly excepted and the exception was allowed by the Court.

A. No, I don't think I have.

Q. Well, did Mr. Ludovic say or give you to understand that this house belonged to him, or that this property belonged to him?

A. He did not; he told me they did not.

Q. Did he give you to understand that he had the control of this property?

A. Mr. Ludovic proved to me when he came in this fall that he did not own the property.

Q. To your satisfaction?

A. To my satisfaction and also during the summer I received instructions from him to sell the property, and I had an offer for it, but on examination of the title I discovered that he did not own the property, that he did not have the legal title, and I wired

(Testimony of James Bell.)

him that if he could do so to get a power of attorney, or that he would have to do so, before I could sell the property, or could make a transfer of the title.

Q. All that you had to do in the matter was through the instructions or directions you had from Ludovic, was it not? A. Yes.

Q. He was the only person you knew in the matter? A. Yes.

Q. Whatever you did in the way of collecting rents from this property was through instructions received from Ludovic, was it not?

A. He left general instructions to look after the property; that was all.

Q. Did he know who had been his tenant during the past summer?

Mr. MURANE.—Objected to as wholly irrelevant, incompetent and immaterial, and as calling for the conclusion of the witness.

The WITNESS.—That is just the question I want to answer; I don't believe he did.

Q. Don't think he knew who his tenant was—either of his tenants this past summer?

A. Not to my knowledge he didn't.

Q. At least that was not contained in the statement you rendered to him when you had your accounting?

(Testimony of James Bell.)

A. I never informed him who the people were. I think in my statement I rendered I think I simply noted it "Received of Yvonne," or whatever the name of the girl was, "so much."

Q. Did you have her name in the account?

A. It was in the statement.

Q. It was in the statement—her name?

A. Yes, I think it was.

Q. Did you remit to him any moneys during the winter? A. I never did.

Q. That remained an unsettled account until he came in here this fall? A. Yes.

Q. I understand.

Q. When you speak of "Lot 17, Block 19," what does that refer to? What designation?

A. It refers to the lots in the town of Nome as mapped and platted by the Township Trustee of the Nome Townsite.

Q. In Nome, Alaska? A. Yes.

Mr. HOYT.—You may take the witness.

Mr. MURANE.—No questions.

(Testimony of Mr. Bell closed.)

Mr. WILLIAM T. ROWE, a witness on behalf of the Government, and being duly sworn and examined by U. S. District Hoyt for the Government, testified as follows:

(Testimony of William T. Rowe.)

My name is W. H. Rowe; my business is transferring and freighting; I am not acquainted with the defendant, Ludovic Dallagiovanna; I have seen him around town lately; I never had any business transactions with this defendant; this is not the man I did business with, or the man who paid me; I never had any talk with this man at all. I had some business with a man in regard to moving a house back in the row, but this is not the man; I moved a house over there after the fire; I don't know which particular house it was, but it was one of the houses back in the alley; I don't know which particular house Yvonne lives in; I don't know the man's name whom I moved the house for, but I do not recognize this defendant as the same man; I don't know that I would know the man if I saw him; he was a Frenchman or Italian, a dark-complexioned man, a smaller sized man than this man; he was a medium-sized man—but somewhat smaller in size, as I remember him, than this man here; I do not know this man here; I don't think I ever had anything to do about moving a house for this man, not to my knowledge; I am pretty sure that this is not the man I did the business with; he was a smaller built man than this man.

Mr. HOYT.—Cross-examine.

Mr. BELL.—No questions.

(Testimony of Mr. Rowe closed.)

JOHN SACKETT, recalled on behalf of the Government, in response to questions propounded by United States District Attorney Hoyt, testified:

I do not know the exact size of the cabin in question; it is one of these small cribs, probably twelve feet square, or twelve by fourteen feet; I do not know whether there is more than one room; I know about what rental values of property of that size and description outside of the restricted district is; I know from renting a house myself; I pay twelve dollars a month.

Mr. BELL.—I move that the testimony of the witness as to rental values be stricken out because it is not shown that the witness is qualified to answer and the answer is not responsive.

The COURT.—We will let it stand, but you had better qualify him a little farther.

To which ruling the defendant excepted, and an exception was by the Court allowed.

Q. Do you know what the rental value of a house of about this character would be outside of the restricted district for ordinary purposes?

Mr. BELL.—Objected to as calling for the opinion of the witness.

The COURT.—Overruled.

To which ruling the defendant excepted, and the exception was duly allowed by the Court.

(Testimony of John Sackett.)

Mr. BELL.—On the further ground that he has not shown himself qualified to answer.

A. I know by people coming to me asking me about houses and cabins; in that way I find out about what cabins are renting for; a cabin the size of this one would be worth about twelve dollars a month; that is what I pay for a cabin myself.

On cross-examination the witness testified in response to questions by Mr. Bell, as follows:

The cabin which I rent is right next to the street that goes by the Staple Block, one block from B street.

Q. Now, don't you know that cabin rent it very high here during the summer?

A. Well, I paid twelve dollars a month for the cabin I live in. It is a two-room cabin; the front room is about ten by twelve or fourteen, and the back room is about ten by twelve; it is a board cabin, papered inside; I don't know how the cabin is built; this is the only cabin I have rented here this summer; I don't know exactly what houses have been renting for throughout the town, but I have a pretty good idea; cabins rent all the way from twenty-five to forty dollars a month, some of them, four-roomed cabins; houses the size of this one all the way from twelve to twenty-five; I know of no cabins for rent on Steadman avenue as far out as the courthouse; big houses

(Testimony of A. Zimmer.)

throughout the town I don't know what they rent for. I don't know what this cabin would rent for if it were carried away and moved to some other portion of the town; I don't know whether it would rent for more than twelve dollars or not.

(Testimony of Mr. Sackett closed.)

Mr. A. ZIMMER, a witness called on behalf of the plaintiff, and being duly sworn and examined by Mr. Hoyt, testified as follows:

About September 30th, 1906, I made some measurements of property in the district known as the restricted district in the town of Nome; I know by the map where the girl Yvonne lives, but do not know by heart the description of the lot and block; the names are all upon the map where these different girls live. According to the map she lives upon lot 17 in block 19; I am testifying from measurements which I took and from a map which I made myself from those measurements and from the records in the city engineer's office.

Q. How large is the house referred to as the house situated upon lot 17 in block 19 of the town of Nome?

Mr. BELL.—Objected to as irrelevant, incompetent and immaterial, and does not show or tend to show that the defendant ever set up or kept the house alleged in the indictment.

(Testimony of A. Zimmer.)

The COURT.—Objection overruled.

To which ruling defendant excepted, and the exception was allowed by the Court.

A. According to the measurement here roughly it is twelve by twelve feet, approximately.

Q. Do you know whether the house has more than one room?

Mr. BELL.—Objected to for the same reasons.

The COURT.—Overruled.

A. Well, I think it has only one room; the map will show; there is only one room.

Q. Do you know the rental values of property of that sort situated outside of the board fence or in what is called the "restricted district" in Nome?

Mr. BELL.—Defendant objects to the question upon the grounds stated in the last preceding objection.

The COURT.—Overruled.

To which ruling the defendant excepted, and the exception was by the Court then and there duly allowed.

A. Well, I have been hunting a house around in that—not in that neighborhood, but around town generally, yes.

(By consent the answer of the witness was stricken out.)

(Testimony of A. Zimmer.)

I know approximately the rental value of that sort situated outside the restricted district. I have been hunting a house for myself around that neighborhood—well, not in that neighborhood, exactly, but around the central portion of the town, for the last month—I have been around house hunting.

Mr. BELL.—I object to any volunteer statements on the part of this witness, and ask that his answer be stricken out because it is not responsive; it is a question which can be answered yes or no.

The COURT.—No, he is just giving the source of his information; we will not strike it out.

Q. Now, do you know the rental value of houses in the residence portion of the town and situated outside the restricted district, of that size?

The COURT.—I think you had better qualify the witness to see how much he knows, whether he is qualified to answer. Better instruct him as to his source of knowledge, etc.

Q. What means of knowledge have you of the rental value of residence property situated in Nome outside of the restricted district?

A. Well, by trying for the last month or so to rent a house for myself, for myself and family.

Q. From that experience do you know the rental values of such property?

(Testimony of A. Zimmer.)

Mr. BELL.—That is objected to as irrelevant, incompetent and immaterial, and for the further reason that the witness has not shown himself qualified to answer; no sufficient foundation has been laid for the witness to answer such question, and for the further reason that it does not in any way tend to show that the defendant was guilty of the charge of keeping or setting up the kind of a house named in the indictment.

The COURT.—You had better state a house situated outside the restricted district and in a desirable neighborhood.

Mr. BELL.—I renew my objection to the question as amended by the Court, made to the last preceding question.

The COURT.—Objection overruled.

To which ruling defendant excepted, and the exception was allowed.

A. In that district from twelve to twenty dollars a month.

Q. In what district?

A. I mean outside of that district, outside of the fence.

Q. Twelve to twenty dollars per month?

A. Yes.

Mr. HOYT.—Cross-examine.

(Testimony of A. Zimmer.)

Upon cross-examination in response to questions propounded by Mr. Bell, for the defendant, witness testified:

I have rented but one house in the town of Nome; I rented that for myself and family; I have never been in the business of renting houses in Nome; I have never had but the one personal experience in inquiring into the price of rents, that within the last month or so; I know what houses have rented for approximately during the past winter; they have rented from twenty to thirty-five, according to size; houses of larger size in the neighborhood of the Golden Gate Hotel may have rented for seventy-five dollars a month during the summer; houses of three rooms furnished during the past summer have rented for as high of seventy-five dollars; one street back of the center rents are approximately from twelve to twenty-five dollars for two rooms; my business is electrician; am at present engaged in city engineering and also working for the photographer Frank Nowell. I measured these houses at the request of the Grand Jury now in session and made the plat at the request of the district attorney.

(Testimony of Mr. Zimmer closed.)

YVONNE LAURENT, recalled, and in answer to questions propounded by Mr. Landers, Assistant United States District Attorney, testified as follows:

I am not going to stay in Nome, this winter on account of, I received bad news from home. I paid my rent but it don't make any difference.

Q. Did you pay your rent from the 10th of September to the 10th of October?

Mr. BELL.—Objected to as immaterial and irrelevant, also as leading, and not binding upon this defendant.

The COURT.—Overruled.

A. Well, it was paid already—excuse me—I don't understand—I paid my rent from the 10th to the 10th, in advance, but it don't make any difference; I don't care; I received bad news from home; it don't make any difference to me what I had paid. I paid up to the 10th of October.

(Testimony of Yvonne Laurent, recalled, closed.)

And thereupon, the Government rested its case in chief.

Whereupon, the defendant by his counsel moved the Court as follows:

If the Court please, at the close of the testimony we move the Court to instruct the jury to return a verdict for the defendant, for the reasons first;

That the indictment does not charge a crime;

(Testimony of Yvonne Laurent.)

Second.—For the reason that the evidence had not connected the defendant in any way with the charge set up in the indictment, of setting up and keeping a bawdy-house for the purposes alleged in the indictment.

Third.—For the reason that the Government has wholly failed to established a case against the defendant in any way.

Fourth.—For the reason, if the Court please, that the indictment is drawn under the Statute of Alaska charging the defendant with setting up and keeping a bawdy-house, and that under such allegation it is necessary for the Government to prove that the defendant did actually set up and keep the bawdy-house alleged in the indictment for the purposes therein named and no evidence has been offered tending in any way to established that fact.

Fifth.—We move the Court to direct the jury to find a verdict for the defendant, for the reason that if he should hold the agent equally liable with the one who actually does set up and keep such a house mentioned in the indictment, that the Government has failed to show that the defendant knew the character of the house in question or that he knew the character of the persons who have occupied the premises and have failed to show any knowledge on his part whatsoever, and have failed to fasten any

charge of guilt upon him under the indictment and under the law.

Sixth.—For the further reason that there is no competent evidence before the Court and jury to show that the defendant was the owner or proprietor of such house, or has ever been the owner of said property; further, for the reason that the Government has wholly failed to show that the defendant had any authority or control over the premises set forth in the indictment.

The COURT.—We overrule the motion.

To which ruling the defendant then and there duly excepted, and the exception was by the Court allowed.

Thereupon the defendant offered the following testimony:

Defendant offered in evidence a certified copy of a deed between Eva Dumont and Josephine Gonzalis for the premises in question, dated September 21st, 1900.

Mr. HOYT.—If the Court please, we object to the paper writing in that, it fails to designate or definitely describe any property sufficiently to show whether it has any bearing upon the allegations in this indictment, and it is void for indefiniteness.

Mr. BELL.—We will follow it up with proof to show that it has reference to the property mentioned in this indictment.

Mr. HOYT.—We make the further of objection that it is incompetent, irrelevant and immaterial for any purpose.

The COURT.—We will overrule the objection but expect counsel to follow it with proof that it is the same property described in the indictment.

(Paper writing referred to received in evidence on behalf of defendant, marked Defendant's Exhibit No. 1, and read to the jury, as follows:)

Defendant's Exhibit No. 1.

This Indenture made the 21st day of September, A. D. 1900, between Eva Lamont, of Nome, Alaska, the party of the first part, and Josephine Gonzalis, of Nome, Alaska, the party of the second part,

Witnesseth: That the said party of the first part for and in consideration of the sum of Five Hundred ($500.00) dollars lawful money of the United States of America, to her in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has remised, released and forever quit claimed, and by these presents does remise, release and forever quit-claimed unto the said party of the second part and to her heirs, and assigns all that certain lot, piece or parcel of land situate, ly-

ing and being in the municipality of Nome, District of Alaska, and bounded and particularly described as follows:

To wit: That certain frame house heretofore occupied by me, situated immediately in the rear of the Grotto Saloon, together with my interest in the lot upon which it stands, which is ten (10) feet wide on the alley and sixteen (16) feet deep.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder or remainders, rents, issues and profits thereof; and, also all the estate, right and title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the party of the first part, of, in or to the said premises and every part and parcel thereof, with the appurtenances.

To have and to hold all and singular the said premises together with the appurtenances, unto the said party of the second part, and to her heirs and assigns forever.

In witness whereof the said party of the first part has hereunto set her hand and seal the day and year first above written.

EVA DUMOND. [Seal]

Signed, sealed and delivered in the presence of:

S. N. CARMAN,

JOSEPH PETIT.

United States of America,
District of Alaska,—ss.

Before me, the undersigned, a notary public in and for the District of Alaska, on this 21st day of September, 1900, personally appeared Eva Dumont, to me known to be the individual described in and who executed the foregoing conveyance, and the said Eva Dumont at said time acknowledged to me that she executed the same freely and voluntarily for the uses and purposes therein mentioned.

Witness my hand and notarial seal the day and year in this certificate first above written.

[Notarial Seal] KEY PITMAN,
Notary Public, in and for the District of Alaska.
(50¢ I. R. S. attached and canceled.)
Filed for record 1:44 P. M., Apr. 9th, 1901.

R. N. STEVENS,
Recorder.

(Vol. 84, page 467.)

GEO. W. COMERFORD,
Deputy.

United States of America,
District of Alaska,
Precinct of Cape Nome,—ss.

I, F. E. Fuller, United States Commissioner and Ex Officio recorder, in and for the Precinct of Cape Nome, in the Second Judicial Division of the Dis-

trict of Alaska, do hereby certify that the above and foregoing is a true, full and complete copy of the instrument numbered 9557, the same being a deed between Eva Dumont and Josephine Gonzalis, as the same appears of record in volume 84, at page 467 thereof, of the records of my office.

Witness my hand and the seal of the said office this 12th day of October, 1906.

[Seal] F. E. FULLER,
Recorder.
By F. R. Cowden,
Deputy.

Filed for record in the office of the Clerk of the U. S. Dist. Court of Alaska, Second Division, at Nome, Oct. 16, 1906. Jno. H. Dunn, Clerk.

Mr. BELL.—I also offer in evidence a deed from Lucy Meyer to Josephine Gonzalis dated the 21st day of September, 1900.

Mr. HOYT.—No objections to this deed; it seems to be adjoining the other deed.

(Paper referred to received in evidence, marked Defendant's Exhibit No. 2, and read to the jury as follows:)

Defendant's Exhibit No. 2.

This indenture made the 21st day of September, A. D. 1900, between Lucy Meyer, of Nome, Alaska, the party of the first part, and Josephine Gonzalis,

of Nome, Alaska, the party of the second part, Witnesseth: That the said party of the first part for and in consideration of the sum of Five Hundred ($500.00) dollars, lawful money of the United States of America, to her in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has remised, released and forever quit-claimed, and by these presents does remise, release and forever quit-claim unto the said party of the second part, and to her heirs and assigns, all that certain lot, piece or parcel of land, situate, lying and being in the Municipality of Nome, District of Alaska, and bounded and particularly described as follows, to wit:

That certain frame building recently occupied by me, situated immediately in the rear or roth of the Columbia Theatre building, and west of house recently occupied by Eva Dumont, together with my interest in the lot upon which my house stands, which is ten feet wide on the alley and sixteen feet deep.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of

the said party of the first part of, in or to the said premises and every part and parcel thereof with the appurtenances.

To have and to hold all and singular the said premises, together with the appurtenances, unto the said party of the second part, and to her heirs and assigns forever.

In witness whereof the said party of the first part has hereunto set her hand and seal the day and year first above written.

LUCY MEYER. [Seal]

Signed, sealed and delivered in the presence of:

S. N. CARMAN.

JOSEPH PETIT.

United States of America,
District of Alaska,—ss.

Before me, the undersigned, a notary public in and for the District of Alaska, on this 21st day of September, 1900, personally appeared Lucy Meyer, to me known to be the individual described in and who executed the foregoing conveyance, and the said Lucy Meyer at said time acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein mentioned.

Witness my hand and notarial seal the day and year in this certificate first above written.

[Seal] KEY PITMAN,

Notary Public in and for the District of Alaska.

Filed for record 1:45 P. M. April 9th, 1901.
(50¢ I. R. S. attached and canceled.)

R. N. STEVENS,
Recorder.
Geo. W. Comerford,
Deputy.

Vo. 84, page 465.

United States of America,
District of Alaska,
Precinct of Cape Nome,—ss.

I, F. E. Fuller, United States Commissioner and Ex-officio Recorder in and for the Precinct of Cape Nome in the Second Judicial Division of the District of Alaska, do hereby certify that the above and foregoing is a true, full and complete copy of Instrument numbered 9558, the same being a Deed from Lucy Meyer to Josephine Gonzalis Lot and House, Nome, Alaska, as the same appears of record in Volume 84, at page 465 thereof, of the records of my office.

Witness my hand and seal of the said office this 12th day of October, 1906.

[Seal]

F. E. FULLER,
Recorder.
F. R. Cowden,
Deputy.

(Testimony of F. E. Fuller.)

[Endorsed]: No. 492—Crim. United States vs. Ludovic Dallagiovanna. Defts. Ex. No. 2. Oct. 16, 1906. A. McB. Filed in the office of the Clerk of the Dist. Court of Alaska, Second Division at Nome. Oct. 16, 1906. Jno. H. Dunn, Clerk.

F. E. FULLER, a witness on behalf of the defendant, being called, duly sworn and examined by Mr. James Bell, testified as follows:

My name is Frederick E. Fuller; I am United States Commissioner and Ex-officio Recorder and Justice of the Peace of the Nome Precinct, District of Alaska, Second Division; as such officer I have charge and custody of the records of said office and papers filed for record therein. The paper which you have just handed me is one of the records of the Probate Court, of which I also as such officer have custody of.

Mr. BELL.—I offer in evidence this paper being a Petition in the Matter of the Guardianship of Josephine Gonzalis, Insane.

Mr. HOYT.—No Objections.

(Paper referred to received in evidence, marked Defendant's Exhibit No. 3, and read to the jury as follows:)

(Testimony of F. E. Fuller.)

Defendant's Exhibit No. 3.

In the United States Commissioner's Court for the District of Alaska, Second Division, Nome Precinct.

Before Hon. R. N. STEVENS, U. S. Commissioner and Ex-officio Justice of the Peace.

In the Matter of the Guardianship of JOSEPHINE GONZALES, Insane.

Petition.

Comes now Leontine Gonzales, your petitioner, and states and petitions to your honor as follows:

That your petitoner is the sister of Josephine Gonzales; that at Nome, Alaska, on or about the 15th day of December, A. D. 1900, the said Josephine Gonzales became violently insane, and has been so ever since. That on the 1st day of June, 1901, said Josephine Gonzales was taken to the United States, and that on or about the 22d day of June, 1901, said Josephine Gonzales was judicially declared to be insane by the Probate Court of King County, State of Washington, and was subsequently and on or about the 22d day of June, 1901, confined to the insane asylum of the State of Washington, at Steilacoom, Washington; that she is now confined in said insane asylum.

(Testimony of F. E. Fuller.)

That said Josephine Gonzales left property in the town of Nome, District of Alaska, consisting of a cabin and lot, valued at about two hundred and fifty ($250.00) dollars.

That the only relative of said insane residing in the District of Alaska is your petitioner; that said insane left a mother of about fifty years of age; a sister Maria Gonzales, about twenty-five years of age; a sister Bertha Gonzales, about twenty-four years of age; a brother seventeen years old, and another brother sixteen years old, all of whom reside in France.

That therefore it is necessary and convenient that a guardian be appointed to the person and estate of said Josephine Gonzales.

Wherefore your petitioner prays that your Honor nominate and appoint your petitioner as fit and proper to act as guardian, and that your Honor will appoint your petitioner guardian of said Josephine Gonzales, Insane.

And your petitoner will ever pray.

(Signed) LEONTINE GONZALES.

United States of America,
District of Alaska,—ss.

I, Leontine Gonzales, being duly sworn, on my oath depose and say: That I am the petitioner

(Testimony of F. E. Fuller.)

named in the foregoing petition; that I have read the foregoing petition and know the contents thereof, and that the same is true as I verily believe.

(Signed) LEONTINE GONGAZLES.

Subscribed and sworn to before me this 19th day of July, 1901.

[Notarial Seal] HENRY Y. FRIEDMAN,
Notary Public for the District of Alaska.

[Endorsed]: Probate Court, Dist. of Alaska, 2d Div., Nome Precinct. In re Guardianship of Josephine Gonzales, insane. Petition. Filed July 24, 1901. R. N. Stevens. U. S. Com. Recorded Vol. 1, pg. 498-8. H. Y. Friedman, Atty. for Petition. No. 492.—Crim. United States vs. Ludovic Dallagiovanna. Defts. Ex. No. 3. Oct. 16, 1906. A. McB. Filed in the office of the Clerk of the Dist Court of Alaska, Second Division, Nome, Oct. 16, 1906. Jno. H. Dunn, Clerk.

Mr. BELL.—I next offer in evidence the order appointing guardian , signed by R. N. Stevens, Judge of the United States Commissioner's Court for the District of Alaska, Nome Precinct entitled "In the Mater of the Guardianship of Josephine Gonzales, Insane, appointing Leontine Gonzales, guardian of the estate and person of said Josephine Gonzales, Insane," dated July 24th, 1901.

Mr. HOYT.—No objections.

(Testimony of F. E. Fuller.)

(Paper referred to received in evidence, marked Defendant's Exhibit No. 4, and read to the jury as follows:)

Defendant's Exhibit No. 4.

In the United States Commissioner's Court for the District of Alaska, Nome Precinct.

Before Hon. R. N. STEVENS, U. S. Commissioner and Ex-officio Probate Judge.

In the Matter of the Guardianship of JOSEPHINE GONZALES, Insane.

Order Appointing Guardian.

The petition of Leontine Gonzales for the appointment of herself as guardian of the person and estate of Josephine Gonzales, Insane, coming on regularly to be heard on this 19th day of July, A. D. 1901, and it duly appearing to the court that petitioner is a sister of the said insane and the only relative of said Josephine Gonzales residing in the District of Alaska; that said Josephine Gonzales has been judicially declared to be an insane person by the Probate Judge of King County, State of Washington; that said Josephine Gonzales left property within the Nome precinct, of the District of Alaska of the value of about $250.00; that the other relatives of the said Insane reside in France; that said Josephine Gonzales is now confined in the insane asylum at Steila-

(Testimony of F. E. Fuller.)

coom, Washington, and the Court being fully advised in the premises:

It is hereby ordered that the said Leontine Gonzales be and she is hereby appointed guardian of the person and estate of Josephine Gonzales, and that Letters of Guardianship be issued to her upon her giving bond in the sum of $500.00.

(Signed) R. N. STEVENS,
Judge of the above-entitled Court.

[Endorsed]: No. 37. Probate Court, Dist. of Alaska, 2d Div. Nome Precinct. In re Guardianship of Josephine Gonzales, Insane. Order Appointing Guardian. Filed July 24, 1901. R. N. Stevens, U. S. Com. Recorded Vol. 1, pg. 499. No. 492.—Crim. United States vs. Ludovic Dallagiovanna. Defts. Exhibit No. 4, Oct. 1906. A. McB. Filed in the office of the Clerk of the Dist. Court of Alaska, Second Division, at Nome, Oct. 16, 1906. Jno. H. Dunn, Clerk.

Mr. BELL.—You may cross-examine the witness.

And upon cross-examination in answer to questions propounded by Mr. Hoyt, U. S. District Attorney, the witness testified:

I do not know any of these people; all I know of about the matter is that I found these records among the files and records in my office.

(Testimony of Mr. Fuller closed.)

Mr. BELL.—Defendant next offers in evidence a deed between W. N. Carter and Leontine Gonzales, connecting up the title, dated October 7th, 1901, signed by Josephine Gonzales, administratrix of the estate of Josephine Gonzales.

Mr. HOYT.—There is no proof that the grantor in the deed had any connection with the title in any way, but I will withdraw any objections to the paper and allow it to go in for what it is worth.

(Paper referred to received in evidence, without objection, and marked Defendant's Exhibit No. 5., the same being as follows, and read to the jury:)

Defendant's Exhibit No. 5.

This indenture made this 7th day of October, A. D. 1901, between W. N. Carter of Nome, Alaska, the party of the first part, and Levantine Gonzalis, Administratrix of the Estate of Josephine Gonzales, In sane, party of the second part:

Witnesseth: That the said party of the first part for and in consideration of the sum of One hundred and twenty-five ($125.00) dollars, lawful money of the United States to—in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, had granted, bargained and sold, conveyed and confirmed, and by these presents do grant, bargain and sell, convey and confirm unto the said party of the second part, and to her heir,

successors and assigns forever, all that certain lot, piece or parcel of land, lying and being in the Town of Nome, District of Alaska, and bounded and particularly described as follows; to wit: Beginning at a point at the southwest corner of the Howard and Carter lot on the north side lines of the passage way in the rear of the Columbia Theater Building, and running thence in an easterly direction twenty-two (22) feet; thence in a northerly direction One Hundred (100) feet; thence in a westerly direction twenty-two (22) feet; thence in a southerly direction along the west line of the Arcade Way One Hundred (100) feet to the place of beginning. Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

To have and to hold, all and singular the said premises, together with the appurtenances, unto the said party of the second part, and to her heirs, successors and assigns forever.

In witness whereof the said party of the first part has hereunto set her hand and seal the day and year first written.

[Seal] W. N. CURTIS.

Signed, sealed and delivered in the presence of

A. C. SCHOW.

H. Y. FRIEDMAN.

United States of America,
District of Alaska,—ss.

This is to certify that on this 7th day of October, A. D. 1901, before me the undersigned, a notary public in and for the District of Alaska, duly commissioned and sworn, personally appeared the within named W. N. Carter, to me known to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed the same freely and voluntarily for the uses and purposes therein mentioned.

Witness my hand and notarial seal the day and year in this certificate first above written.

HARRY Y. FRIEDMAN,
Notary Public for the District of Alaska.

Filed for record 10:32 A. M., Oct. 15, 1901.

T. M. REED,
Recorder.
Thos. R. White,
Deputy.

(Vol. 88, page 217.)

United States of America,
District of Alaska,
Precinct of Nome,—ss.

I, F. E. Fuller, United States Commissioner and Ex-officio Recorder in and for the Precinct of Cape

Nome in the Second Judicial Division of the District of Alaska, do hereby certify that the above and foregoing is a true, full and complete copy of the Instrument numbered 12716, the same being a deed between W. N. Carter and Levantine Gonzalis, Administrator of the estate of Josephine Gonzalis, insane, as the same appears of record in volume 88 at page 217 thereof, of the records of my office.

Witness my hand and the seal of this said office this 12th day of October, 1906.

[Seal] F. E. FULLER,
Recorder.
By F. R. Cowden,
Deputy.

[Endorsed]: No. 492-Crim. United States vs. Ludovic Dallagiovanna. Defts. Exhibit No. 5. Oct. 16, 1906. A. McB. Filed in the Office of the Clerk of the Dist. Court of Alaska, Second Division at Nome. Oct. 16, 1906. Jno. H. Dunn, Clerk.

Mr. BELL.—I now offer in evidence the deed of the townsite trustee for the property in question to Leontine Gonzalis.

Mr. HOYT.—No objections.

(Paper referred to received in evidence without objection, marked Defendant's Exhibit No. 6, and read to the jury as follows:)

Defendant's Exhibit No. 6.

TRUSTEE'S DEED.

This indenture made this 28th day of August in the year of our Lord one thousand nine hundred and six; by and between Porter J. Coston, as trustee for the townsite of Nome in the District of Alaska, party of the first part, and Leontine Gonzalis, of Nome, Alaska, party of the second part:

Witnesseth: That said party of the first part, as such trustee, by virtue of the power vested in and conferred upon him by the terms of section 11 of the Act of Congress approved March 3, 1891 (26 U. S. Stat. 1905) and the regulations thereunder, and the patent issued to him thereon, and in consideration of the sum of forty-four 00/100 ($44.00/100) dollars, the amount of the assessment upon the premises hereinafter described, the receipt of which is hereby acknowledged, by these premises grant, convey and confirm unto the said party of the second part and to her heirs and assigns, all the following lot, piece and parcel of land situate in the townsite of Nome and District of Alaska, described as follows, to wit:

The west twenty-two feet (22) of lot No. 7 in block 19.

To have and to hold the same together with all and singular the tenements, hereditaments and ap-

purtenances thereunto belonging or in anywise appertaining forever.

In witness whereof said party of the first part, as such trustee has hereunto set his hand and seal on the day and year first above written.

PORTER J. COSTON, [Seal]

Trustee for the Townsite of Nome, District of Alaska.

In presence of

JOHN RUSTGARD.

J. J. RYAN.

United States of America,

District of Alaska,

Precinct of Cape Nome,—ss.

I, F. E. Fuller, United States Commissioner and Ex-officio Recorder in and for the precinct of Cape Nome, in the Second Judicial Division of the District of Alaska, do hereby certify that the above and foregoing is a true, full and complete copy of Instrument numbered 38065, the same being Townsite Trustee's Deed to Leontine Gonzalis, Lot No. 7, West 22 feet, Block 19, Nome, Alaska, as the same appears of record in volume 159, at page —— thereof, of the records of my office.

Witness my hand and the seal of the said office this 12th day of October, 1906.

[Seal] F. E. FULLER,
Recorder.
By F. R. Cowden,
Deputy.

(Testimony of James W. Bell.)

[Endorsed]: No. 492-Crim. United States vs. Ludovic Dallagiovanna. Defts. Exhibit No. 6. Oct. 16, 1906. A. McB. Filed in the Office of the Clerk of the Dist. Court of Alaska, Second Division, at Nome. Jno. H. Dunn, Clerk. Oct. 16, 1906.

JAMES W. BELL, a witness on behalf of the defendant, and being duly sworn and examined, in response to questions propounded by Mr. C. D. Murane, testified as follows:

My name is James W. Bell; I am an attorney at law; I did not make the application for the title or deed last offered in evidence, but I furnished proof of title to the satisfaction of the trustee; the property described in this deed covers the premises that is described in this indictment, or a portion of it describes that property; it is the same property, also, that is described in the other deeds which have been introduced in evidence; I investigated the title to the property myself.

On cross-examination in response to questions of United States District Attorney Hoyt, witness testified as follows:

Q. Who made the application for the patent?

A. The application was made last fall.

Q. By whom?

(Testimony of James W. Bell.)

Mr. MURANE.—That is objected to as immaterial, irrelevant and not proper cross-examination; the deed shows the party who made the application and is the best evidence, and desire the Court to instruct the witness that he need not answer the question if it was a privileged communication.

The COURT.—Objection overruled.

To which ruling the defendant excepted and the exception was duly allowed.

A. The application was made by Ludovic Dallagiovanna, asking that the deed be made to Leontine Gonzalis.

Q. That is the defendant here?

A. Yes.

Q. Under a power of attorney to him?

Mr. MURANE.—Objected to as not proper cross-examination, and incompetent, irrelevant and immaterial for any purpose.

The COURT.—Objection overruled.

To which ruling the defendant duly excepted and the exception was by the Court allowed.

A. I did not see any power of attorney to him.

Q. You didn't see any power of attorney to him?

A. No.

Q. Have you ever since then seen a power of attorney to the defendant here?

(Testimony of James W. Bell.)

Mr. MURANE.—Objected to as not proper cross-examination, immaterial and irrelevant.

The COURT.—Objection overruled.

To which ruling the defendant excepted and the exception was by the Court allowed.

A. I have.

Q. From whom?

Mr. MURANE.—Same objection, and further the power of attorney speaks for itself.

The COURT.—Objection overruled.

To which ruling the defendant duly excepted and the exception was allowed.

A. From Leontine Gonzalis.

Q. To whom?

Mr. MURANE.—Same objection.

The COURT.—Overruled.

To which ruling the defendant then and there excepted and the exception was by the Court allowed.

A. To Ludovic Dallagiovanna.

Q. Have you the power of attorney?

A. I have.

Q. Will you produce it please?

(Paper produced and handed to United States District Attorney Mr. Hoyt.)

Q. This is the power of attorney from Leontine Gonzalis to Ludovic Dallagiovanna authorizing him

(Testimony of James W. Bell.)

to do anything the principal might do if personally present, is it?

Mr. MURANE.—That is objected to because the power of attorney is in writing and speaks for itself.

Mr. HOYT.—I will now offer this power of attorney in evidence, may it please the Court.

Mr. MURANE.—No objections.

(Paper referred to received in evidence without objections and marked Plaintiff's Exhibit "B," read to the jury as follows:)

Plaintiff's Exhibit "B."

Know all men by these presents: That I, Leontine Gonzales, of the City of Seattle, King County, Washington, have made, constituted and appointed, and by these presents do make, constitute and appoint Ludovic Dallagiovanna my true and lawful attorney, for me and in my name, place and stead, and for my use and benefit in the Territory of Alaska, to ask, demand, sue for, recover, collect and receive all such sums of money, debts, dues, accounts, legacies, bequests, interests, dividends, annuities and demands whatsoever, as are now or shall hereafter become due, owing, payable or belonging to me, and have, use and take all lawful ways and means in my name or otherwise for the recovery thereof by attachments, arrest,

(Testimony of James W. Bell.)

distress or otherwise, and to compromise and agree for the same, and to make, sign, seal and deliver acquittances, or other sufficient discharges for the same for me, and in my name, to bargain, contract, agree for, purchase, receive and take, lands, tenements, hereditaments, and accept the seizen and possession of all lands and all deeds and other assurances in the law thereof, and to lease, let, demise, bargain, sell, remise, release, convey, mortgage and hypothecate lands, tenements and hereditaments upon such terms and conditions and under such covenants as he shall think fit. Also to bargain and agree for, buy, sell, mortgage, hypothecate, and in any and every way and manner deal in and with goods, wares and merchandise, choses in action and other property, in possession or in action, and to release mortgages on lands or chattels, and to make, do and transact all and every kind of business of what nature and kind soever; and also for me and in my name and as my act and deed to sign, seal, execute, deliver and acknowledge such deeds, leases, assignments of leases, covenants, indentures, agreements, mortgages, hypothecations, bottomries, charter parties, bills of lading, bills, bonds, notes, receipts, evidences of debt, releases and satisfaction of mortgages, judgments and other debts, and such other

(Testimony of James W. Bell.)

instruments in writing of whatever kind or nature as may be necessary or proper in the premises;

Giving and granting unto my said attorney full power and authority to do and perform all and every act and thing whatsoever, requisite and necessary to be done in and about the premises as fully, to all intents and purposes as I might or could do if personally present in said territory of Alaska, hereby ratifying and confirming all that my said attorney shall lawfully do or cause to be done by virtue of these presents.

In witness whereof I have hereunto set my hand and seal the 4th day of September, in the year of our Lord one thousand nine hundred and six.

LEONTINE GONZALES. [Seal]

Signed, sealed and delivered in the presence of

LILY JOHNSON.

United States of America,
State of Washington,
County of King,—ss.

This is to certify that on this 4th day of September, A. D. 1906, before me, the undersigned, a notary public in and for the State of Washington duly commissioned and sworn, personally came Leontine Gonzalis of the City of Seattle, King County, Washington, to me known to be the individual described in and who executed the within instrument, and ac-

(Testimony of James W. Bell.)

knowledged to me that she signed and sealed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

Witness my hand and official seal the day and year in this certificate first above written.

[Notarial Seal] S. D. WINGATE,
Notary Public in and for the State of Washington,
Residing at Seattle.

Filed for Record October 13, 1906, 12: 20 P. M. at Request of J. W. Bell. F. E. Fuller, Recorder. F. R. Cowden, Deputy.

United States of America,
District of Alaska,
Precinct of Cape Nome,—ss.

I, F. E. Fuller, United States Commissioner and Ex-officio Recorder in and for the Precinct of Cape Nome, in the Second Judicial Division of the District of Alaska, do hereby certify that the above and foregoing is a full, true and complete copy of Instrument numbered 38134, the same being General Power of Attorney from Leontine Gonzalis to Ludovic Dallagiovanna as the same appears of record in volume —— at page —— thereof, of the records of my office.

Witness my hand and the seal of the said office this 13th day of October, 1906.

[Seal] F. E. FULLER,
Recorder.
By F. R. Cowden,
Deputy.

[Endorsed]: No. 492-Crim. United States vs. Ludovic Dallagiovanna. Pltff's Exhibit "B." Oct. 16th, 1906. A. McB. Filed in the Office of the at Nome. Oct. 16, 1906. Jno. H. Dunn, Clerk.

At this time the defendant rested his case.

And now, and after the usual caution to the jury, this Honorable Court was ordered to stand adjourned until Wednesday, at ten o'clock A. M., October the 17th, 1906;

And thereafter, and at the hour of ten o'clock A. M. on Wednesday, the 17th day of October, A. D. 1906, this Honorable Court was reconvened, and all being found present, proceedings were resumed as follows:

Thereupon, the Government offered the following testimony in rebuttal.

Mr. A. C. SCHOW, being called as a witness for the Government, in rebuttal, being duly sworn and examined, in response to questions propounded by

(Testimony of A. C. Schow.)

United States District Attorney Mr. Hoyt, testified as follows:

Q. Mr. Schow, I hand you Defendant's Exhibit No. 5, being a deed from W. N. Carter, party of the first part, to Leontine Gonzales, administratrix of the estate of Josephine Gonzales, insane, party of the second part. I notice your name as a witness (of course this is a certified copy), but do you remember anything about the execution of that deed?

Mr. BELL.—That is objected to, if the Court please, as certainly not rebuttal, and incompetent, irrelevant and immaterial. Also, if the Court please, when this deed was offered in evidence the District Attorney withdrew all objections to it and let it go in without objection. There has been no testimony offered that this could possibly be rebuttal of, and we object to the Government opening up its case in chief at this time.

The COURT.—Objections overruled.

To which ruling the defendant excepted and the exception was duly allowed by the Court.

A. Well, I guess I can settle this very easy. This is evidently my signature, or is my signature on the original; it must be, but I don't know as I can say that I remember signing this as a witness; it is very likely that I did because I as well as every man will

(Testimony of A. C. Schow.)

often be called to witness the signing of these papers or some kind of documents, but I can't remember the one in this case.

Q. Don't remember anything about the making of this deed?

Mr. BELL.—Objected to as immaterial, irrelevant, not rebuttal and also as leading and cross-examining his own witness.

The COURT.—Overruled. He has already answered it, however.

A. No, I don't remember about this one. All I could state that if my signature is there I must have signed it, but I don't remember it; I wouldn't know if my signature was not there.

Q. Were you acquainted with Josephine or Leontine Gonzales, or either of them?

Mr. BELL.—Object to the question because it is irrelevant, and immaterial and incompetent, and not rebuttal testimony, if the Court please.

The COURT.—We permit the question; objection overruled.

To which ruling the defendant duly excepted and the exception was allowed by the Court.

A. Yes, I know them by sight.

(Testimony of A. C. Schow.)

Q. Did you know the business relationship existing between the defendant Ludovic and either of them?

Mr. BELL.—Objected to as incompetent, irrelevant, and immaterial and not rebuttal testimony.

The COURT.—Objection overruled.

To which ruling the defendant duly excepted and the exception was by the Court allowed.

A. Well, I can't say that I knew one from the other, which was Josephine or which was Leontine; I could not say; I remember of seeing them here; I don't know anything about their business, or what business Ludovic may have had with him. I know he purchased the same ground in 1900, or 1901 for them; and that is all I know about it.

On cross-examination in response to questions asked by Mr. Bell, the witness testified as follows:

Q. When was the last time you, do you know, that Josephine or Leontine Gonzales were ever in Nome?

A. Well, I could not swear to that; not for a couple or three years, any way.

Q. As matter of fact, do you know that they have neither of them been here since 1901?

A. Well, I could not swear when was the last time I saw them; I don't know when they were here

(Testimony of A. C. Schow.)

last; I could not say whether it was two or three years that I saw one of them here; may have been more than that; I ain't sure.

On redirect examination, in response to questions by Mr. Hoyt, the witness testified as follows:

Q. Do you know what business Josephine Gonzales was engaged in here in Nome?

Mr. BELL.—That is objected to as irrelevant, incompetent and immaterial and not binding upon this defendant, and as not rebuttal.

Mr. HOYT.—I don't care whether it is rebuttal or not; I think we have the right to put in the evidence at this time if we desire.

The COURT.—Objection overruled.

To which ruling the defendant excepted and the exception was duly allowed by the Court.

A. Well, I could not swear to what their business was, no; I know they lived back in the alley.

Q. What alley?

Mr. BELL.—Same objections.

The COURT.—Overruled.

To which ruling the defendant excepted and the exception was by the Court allowed.

A. In the alley, back of the houses on Front street.

(Testimony of A. C. Schow.)

Q. The same place spoken of in this testimony as the restricted district?

Mr. BELL.—Same objection, if the Court please.

The COURT.—Overruled.

To which ruling the defendant excepted and the exception was allowed by the Court.

A. Practically the same.

(Testimony of Mr. Schow closed.)

Mr. HOYT.—The Government rests its case, if the Court please.

Thereupon, the defendant rested his case, and the above testimony is all the testimony offered in said case.

During the argument of the counsel for the Government to the jury, Mr. District Attorney Hoyt made the statement which were then and there duly excepted to by the counsel for the defendant, which exception was allowed by the Court, as follows: Reply to Mr. Bell's question in argument "Why don't they prosecute the prostitutes themselves?" Mr. Hoyt after expressing sympathy for prostitutes but lack of sympathy for those who live off their earnings said: "I suppose that that was what was in the minds of the Grand Jury which perhaps is also in your minds, that they determined to try and put

a stop to this French business of men living off the earnings of fallen women; etc."

And thereupon, and after the conclusion of the argument of counsel, the Court charged the jury.

And now, at this time and before the jury retired to consider of their verdict the defendant, by his counsel, takes the following exceptions to the instructions given by the Court to the jury, in said cause, to wit:

1.

The defendant excepts to that portion of the Court's instructions to the jury given in said cause which reads as follows:

Section 186 of the Criminal Code for Alaska declares: "That all persons concerned in the commission of a crime, whether it be a felony or misdemeanor, and whether they directly commit the crime or aid and abet in its commission, though not present, are principals"; for the reason that the same does not correctly state the law.

2.

The defendant excepts to that portion of the Court's instructions to the jury given in said cause which reads as follows:

"If, therefore the evidence in this case should convince you beyond a reasonable doubt that the defendant did not actually reside in the district wherein the house of ill-fame referred to in the in-

dictment, if any such house there is or was, was situate, or did not have control and actual dominion of such house so as to be the keeper of the house in the sense of conducting the house, yet, if he as owner or agent of the owner aided and abetted the person or persons who did conduct said house, if any, by knowingly furnishing the actual keeper with a place for the conducting of a house of prostitution he will in the contemplation of the law be guilty of the crime of keeping or setting up a bawdy-house, and if so you should not hesitate to find him guilty"; for the reason that said instruction is an argument and is not in conformity with the law.

3.

Defendant also excepts to that portion of the instructions given by the Court to the jury in this case which reads as follows:

"The defendant in this case is charged by the indictment with the offense of having kept or set up a house of ill-fame or bawdy-house for the purpose of prostitution, fornication or lewdness. In order to find the defendant guilty of this offense, it is not necessary that he should be in the actual possession of the house, or living therein, or exercising such particular control over it as does the keeper of a hotel or lodging-house ordinarily or as does the head of a family over his domicile; all that is necessary to constitute the defendant the keeper of the house is evi-

dence beyond a reasonable doubt that he had control over the renting of the house, or of the management of the property for the purposes of revenue, and that he could have prevented its use for immoral purposes, and while so under his control it was actually used for purposes of prostitution, fornication or lewdness, and that he had knowledge of such use; therefore if you find from the evidence beyond a reasonable doubt, that the house in question was used for the purposes of prostitution, fornication or lewdness, or in other words was a house of ill-fame, and that the defendant either was the owner thereof or was the attorney in fact of the owner or was the owner's agent in any form for the purpose of renting the premises, and that while he was in such control thereof the house was actually used by the lessees thereof for a bawdy or house of ill-fame, and that he had knowledge thereof, then you must find the defendant guilty as charged in the indictment"; for the reason that the same is contrary to the law in that it instructs the jury that the defendant need not be the keeper of the house alleged in the indictment.

4.

Defendant also excepts to that portion of the instructions given by the Court to the jury in this case, which reads as follows:

"The jury are instructed that in all prosecutions for the offense of keeping a bawdy-house, common

fame is competent evidence in support of the indictment as to the character of the house.

Therefore, if the house has a reputation of being a bawdy-house, or house of ill-fame, beyond a reasonable doubt that is sufficient to support a finding that it was such, if there is not evidence offered to the contrary.

The jury can take into consideration in deciding whether it is or is not a house of ill-fame not only the oral testimony as to its character, but also the physical facts adduced in the testimony as to the situation of the house, with reference to other houses of prostitution or ill-fame, if any, the character of the inmates, if any testimony has been given in regard thereto, the region in which the house is situated, if any testimony has been brought out tending to prove that there is a region or district chiefly inhabited by prostitutes, or given over for purposes of prostitution, and that the house in question is situate therein, or with reference to the character of the people chiefly inhabiting the district where the house is situated. And still stronger evidence, if any such there be, would be the direct, uncontradicted testimony of any witness or witnesses, that the house is in fact a house of ill-fame or a house of prostitution"; for the reason that while common fame is competent evidence, it is not sufficient, and the instruction that it is sufficient is an argument to the jury upon the weight of the evidence.

5.

The defendant also excepts to that portion of the instructions given by the Court to the jury in this case which reads as follows:

"You are instructed that it is not necessary to demonstrate to a mathematical certainty that the defendant had knowledge of the use to which the house was put by the occupier thereof; that degree of certainty which ordinarily moves men to act in the ordinary affairs of life is sufficient, where such degree of certainty leaves no reasonable doubt in your minds.

Therefore, if you find from the evidence beyond a reasonable doubt that the house in question was located in a section of the community generally occupied by prostitutes, or that is was in a locality generally given over to occupation by prostitutes, or that is was in a section of the community demarked or separated by a barrier, fence, or other artificial boundary, from other sections of the community, within which demarked territory prostitution was generally carried on, and which demarked or separated territory was occupied generally by prostitutes and that the house was let to a woman or women, within such demarked or separated territory, and that at or during the time while the defendant had dominion over the house, either as owner, agent or attorney in fact of the owner, then

the jury would be fully justified in finding that the defendant had knowledge of the use to which the house was put": for the reason that said instruction is contrary to the law and is a comment upon the weight of the evidence, and for the further reason that it is necessary to prove the actual use for the specific purposes alleged in the indictment in order to find the defendant guilty: and that the agent or attorney in fact cannot be found guilty of being a keeper, under the law.

6.

Defendant also excepts to that portion of the instructions given by the Court to the jury in this case, which reads as follows:

"The jury are instructed that prostitution is an offense denounced by the law, and this jury is sworn to enforce and uphold the law: no matter, therefore, what may be the individual opinion of any juror or jurors as to whether or not the law upon this subject is correct and wise, and no matter what sympathy, if any, any juror or jurors may have for this unfortunate class of people commonly designated as prostitutes (and surely no juror has any sympathy for those who pander to such vices or live off the earnings of prostitutes, either directly or indirectly), sympathy or personal feeling should have no weight for any juror, but each juror should honestly, as a man, and under his oath decide this

case upon the evidence before him as guided by these instructions"; for the reason that such instruction tends to mislead and suggest to the jury the opinion of the Court. Also, for the reason that there is no evidence in the case that the defendant did pander to such vices or live off the earnings of prostitutes either directly or indirectly, and that such instruction tends to mislead and is a statement of facts contrary to the law, and directs the jury the verdict they should find.

7.

The defendant also excepts to the giving of the instruction by the Court to the jury in this case as follows:

The jury are instructed that a reasonable doubt arising from the evidence or lack of evidence in the case and must be reasonable and not frivolous; it must not be a mere conjecture, and the jury are bound by their oaths not to go outside of the evidence to hunt up a doubt, or an excuse which they may choose to call a doubt for the purpose of avoiding the performance of what may be to them a disagreeable duty, and they are as much bound by their oath not to do this as they are bound by their oaths as honest men to render a fair and impartial verdict, without fear of any man and with favor to none; and therefore, as honest men, as oath-bound jurors the jury should not fail to find a verdict because of a doubt of the defen-

ant's guilt under the testimony and under these instructions, unless it be a doubt arising either from the evidence before you, or from some lack of evidence, and for which doubt a good reason can be given to your consciences and to your fellow jurors, for the reason that the said instruction tends to argument and is an attempt to convince the jury that there can be no reasonable doubt in the minds of the jury in the case in question.

8.

The defendant excepts to the refusal of the court to give to the jury the requests from instructions submitted by the defendant in writing, which request No. I reads as follows:

I. I instruct you that under the statute common fame is made competent evidence of the character of the house in qustion, but reputation or fame alone is not sufficient evidence to warrant a conviction for keeping a bawdy-house there must be some other evidence showing that the house is actually used as a bawdy-house."

9.

The defendant also excepts to the refusal of the court to give to the jury Instruction No. II requested by defendant in writing, reading as follows:

"II. If you find from the evidence beyond a reasonable doubt that the house in question is a bawdy-house, you must further find that the defen-

dant is the keeper of said house, that is, had dominion and control over said house and the right to admit persons or exclude them from said house before you can find him guilty of keeping a bawdy-house."

10.

The defendant also excepts to the refusal of the court to give to the jury Instruction No. III requested by defendant in writing, which instruction reads as follows:

"III. If you find from the evidence beyond a reasonable doubt that said house is a bawdy-house kept for the purpose of prostitution or lewdness and that the defendant is not the owner of said house, but that said defendant rented said house acting as agent for an owner, then before you can find him guilty of keeping a bawdy-house, you must find from the evidence beyond a reasonable doubt that the defendant rented said house knowing that the lesses intended to use said house for the purpose of prostitution or bawdry and that they did use it to the knowledge of defendant."

11.

Defendant further excepts to the refusal of the court to give to the jury Instruction No. IV requested by the defendant in writing, which said Instruction reads as follows:

"IV. You are instructed that there have been documents introduced in evidence which tend to show that

the defendant is not the owner of the house in question, and if you should find from the evidence that the defendant is not the owner of said premises, beyond a reasonable doubt, then you must find that the defendant was acting for the owner of said premises and that said defendant rented said premises while acting for said owner with knowledge that the lessees intended to use said premises for a bawdy-house of prostitution, and that defendant collected the rents for said premises with knowledge of the purpose for which they were being used; otherwise you should find the defendant not guilty.

12.

Defendant excepts to the refusal of the court to give to the jury Instruction No. V. requested by the defendant in writing, which said Instruction is as follows:

"V. If you should find from the evidence that some person other than the defendant leased said premises to lessees who used said premises for the purposes of prostitution or bawdry, and that the defendant had no knowledge of the character of the persons to whom said premises were leased, the mere fact that he received the rents from the person who leased said premises for unlawful purposes would not charge him with knowledge of the fact, if you should find it to be a fact that said house was being used for

prostitution or bawdry, and you could not find the guilty of setting up or keeping a bawdy-house."

And thereafter, the jury retired in charge of the sworn bailiffs to consider of their verdict.

The foregoing bill of exceptions with all amendments agreed upon by the respective parties, and the same being all the testimony offered in the trial of the said cause, the same is hereby settled and allowed by the court, as the full and complete record of the testimony in said cause.

Dated this 23d day of October, 1906.

ALFRED S. MOORE,
District Judge.

[Endorsed]: No. 492—Crim. In the United States District Court for the District of Alaska, Second Division. United States, plaintiff, vs. Ludovic Dallagiovanna, defendant. Proposed Bill of Exceptions. Filed in the office of the Clerk of the Dist. Court of Alaska. Second Division, at Nome, Oct. 22, 1906, Jno. H. Dunn, Clerk. Jas. W. Bell, Attorney for Deft. Re-filed in the office of the Clerk of the Dist. Court of Alaska, Second Division, at Nome. Oct. 23, 1906. Jno. H. Dunn, Clerk.

In the District Court for the District of Alaska, Second Division. . . . . . .

Term Minutes, Special September, 1906, Term begun and held at the Town of Nome, in said District and Division, Sept. 24, 1906.

Friday, Oct. 19, 1906, at 10 A. M.

Court convened pursuant to adjournment.

Present: Hon. ALFRED S. MOORE, Judge.

Jno. H. Dunn, Clerk.

Angus McBride, Deputy Clerk.

H. M. Hoyt, U. S. Attorney.

Thos. C. Powell, U. S. Marshal.

Now upon the convening of court the following proceedings were had:

* * * * * * *

No. 492.—C

UNITED STATES

vs.

LUDOVIC DALLAGIOVANNA.

Order Fixing Time to File Petition for Appeal and Assignment of Errors.

On motion of Jas. W. Bell, defendant was granted until Monday next to file petition for appeal and assignment of errors.

In the District Court for the District of Alaska, Second Division.

UNITED STATES OF AMERICA,

Plaintiff,

-vs.-

LUDOVIC DALLAGIOVANNA,

Defendant.

Assignment of Errors.

Comes now the defendant in the above-entitled action and assigns the following errors as having been committed by the Court on the trial and in the proceedings in the above-entitled cause, upon which the defendant intends to and does rely upon as a writ of error in the above-entitled action.

1.

The Court erred in overruling the defendant's plea in abatement.

2.

The Court erred in overruling defendant's demurrer to the indictment.

3.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness, Yvonne Laurent, as follows:

"Q. Who lives in the house next to the east of you?

Mr. BELL.—That is objected to on behalf of the defendant upon the ground that it is not shown that the witness knows; it is immaterial, irrelevant and incompetent, and is not binding upon this defendant in any way, nor does not tend to prove any issue in this case.

The COURT.—Objection overruled.

To which ruling the defendant duly excepted, and the exception was allowed.

A. I don't know; I could not tell you, I don't know which way is east.

Q. This is east (indicating points of compass to witness); this is west—now who lives to the eastward of you in the house next to you?

Mr. BELL.—Same objection.

The COURT.—Overruled.

To which ruling of the Court the defendant duly excepted, and the exception was allowed.

A. It is a girl named DuBose—Violet DuBose; she lives in the house next to me that way."

4.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness Yvonne Laurent, as follows:

"Q. Who was the first person you saw about renting this house?

Mr. BELL.—Objected to as incompetent, irrelevant and immaterial and as not tending to establish any fact in this case.

The COURT.—Objection overruled.

To which ruling the defendant duly excepted, which exception was allowed.

A. There was a friend of mine she told me my house is rented already; she told me to go live in that house; she is not there any more. I didn't see anybody about renting the house only my friend; I had a friend here at Nome and she told me when I come into Nome she had a place for me and I go there."

5.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness Yvonne Laurent, as follows:

"Q. Did your friend make arrangements for you to live in this house?

Mr. BELL.—Objected to as calling for hearsay evidence.

The COURT.—Objection overruled.

To which ruling defendant duly excepted, and the exception was allowed.

A. I don't know."

6.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness Yvonne Laurent, as follows:

"Q. Who paid the rent? A. I paid it.

Mr. BELL.—Objected to and move that the answer be stricken out until I can make my objection.

The COURT.—Strike it out.

Mr. BELL.—Object to the question on the ground because it is incompetent, irrelevant and immaterial, and in no way shown to be connected with the defendant.

The COURT.—Objection overruled.

To which ruling of the Court defendant duly excepted, and the exception was allowed.

"Q. Who did you pay the rent to?

A. I paid it when I came in."

7.

The Court in admitting the testimony introduced on behalf of the Government and testified to by the witness Yvonne Laurent, as follows:

"Q. How did you know that Mr. Bell had the renting of that property?

Mr. BELL.—Object to the question on behalf of the defendant on the ground that it is irrelevant, im-

material and incompetent and in no way tending to bind this defendant.

The COURT.—Objection overruled.

To which ruling the defendant duly excepted, and the exception was allowed.

Q. Did anyone tell you to go to see him about the renting of these premises?

Mr. BELL.—Objected to by defendant because it is incompetent, irrelevant and immaterial and in no way binding upon this defendant; as wholly disconnected with the premises so far as the evidence thus far has gone, and does not tend to prove or disprove any of the issues in this case.

The COURT.—Objection overruled.

To which ruling the defendant duly excepted, and the exception was allowed.

A. No, excuse me—

Q. How did you know that he had the renting of the house? A. I go to see him myself.

Q. Well, how did you know about going to see him about renting the house?

A. Well, I know about it before I guess

Q. How did you know—who told you to go see him?

Mr. BELL.—Same objection as to the last preceding question.

The COURT.—Overruled.

To which ruling the defendant duly excepted, and the exception was allowed.

A. Why, I don't know, my lady friends; it was rented for me by my lady friend before I came here."

8.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness, Yvonne Lauret, as follows:

"Q. Is this what you got when you paid your rent?

Mr. BELL.—Objected to because the receipt speaks for itself.

The COURT.—Objection overruled.

Mr. LANDERS.—We offer this paper writing in evidence, if the Court please.

Mr. BELL.—Defendant objects to the introduction in evidence, if the Court please, for the reason that it is incompetent, irrelevant and immaterial and in no way tending to prove that the defendant in this case ever kept up or set up a house for the purposes alleged in the indictment.

The COURT.—Objection overruled and paper admitted.

To which ruling the defendant excepted, and the exception was duly allowed by the Court.

(Paper referred to received in evidence, marked by the clerk as plaintiff's exhibit 'A,' and read to the jury, as follows:

'Nome, Alaska, August 10th, 1906.

Received of Yvonne Seventy-five dollars as rent of Ludovic's cabin, for the month beginning this day and ending, September 10th, 1906.

(Signed) JAS. T BELL.' "

9.

The Court erred in admitting the testimony introduced in behalf of the Government, and testified to by the witness, Fay Moreland, as follows:

"My name is Fay Moreland; I live back of the stockade in Nome, my business is that of prostitution.

Mr. BELL.—I object to the question and move to strike out the answer of the witness on the ground that the question is incompetent, irrelevant and immaterial, and not binding upon the defendant in this case.

The COURT.—Objection overruled.

To which the ruling defendant duly excepted, and the exception was allowed."

10.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness, Fay Moreland, as follows:

"Q. Do you know all the girls that live in that row of houses alongside of your house?

Mr. BELL.—That is objected to as immaterial, irrelevant and incompetent, and not shown to have any connection with the defendant nor the premises described in this complaint, as to where the other girls live, who are not concerned in this case, and not connected with the particular property alleged in this indictment.

The COURT.—Where some of the other girls live, unless I don't think would give much color, unless it were confined to this particular block or locality.

Mr. HOYT.—We will confine it to this particular locality and block. The purpose is to show the general reputation of the rest of the women living in this locality.

The COURT.—Objection overruled.

To which ruling of the Court the defendant excepted, which exception was, by the Court allowed.

A. Why, no, I don't know all of the girls, no."

11.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness, Violet Cameron, as follows:

"Q. What is your business?

Mr. BELL.—That is, objected to as incompetent, irrelevant and immaterial and not binding upon this defendant, and ask the Court to instruct the witness that she need not answer unless she desires to do so as the answer might tend to incriminate herself.

The COURT.—Objection overruled.

Mr. BELL.—I would ask the Court to instruct the witness.

The COURT.—No, we won't instruct her now; objection overruled; and answer the question.

To which ruling the defendant excepted, and the exception was duly allowed.

A. Prostitution.

Q. Do you know the general reputation of the business carried on in the house occupied in this locality?

Mr. BELL.—Objected to as incompetent, irrelevant and immaterial and not confined to the house specifically alleged in this indictment, and is therefore not binding upon this defendant in any manner.

The COURT.—Objection overruled.

To which ruling the defendant excepted, and the exception was duly allowed."

12.

The Court erred in admitting the testimony in-

troduce on behalf of the Government, and testified to by the witness, John Sackett, as follows:

"Q. Have you ever seen the defendant Ludovic Giovanna in this neighborhood, in which this house is situated?

Mr. BELL.—Objected to as irrelevant, incompetent and immaterial whether or not he has ever seen him in the neighborhood of these premises.

Mr. HOYT.—This is preliminary to another question, fixing the time and circumstances. We will add to the question, 'In the month of September, 1905'?

The COURT.—Objection overruled.

To which ruling the defendant excepted, and the exception was duly allowed.

A. I have, yes, sir. This was right after the fire.

Q. What was he doing?

Mr. BELL.—Objected to as irrelevant, incompetent and immaterial, what he was doing unless it tends to show that he set up, and kept a house for the purposes alleged in the indictment.

The COURT.—Overruled. We don't know exactly what is coming, but if not proper we can strike it out.

To which ruling the defendant excepted, and the exception was duly allowed.

A. Well, I have never seen him back there except this time right after the fire.

Q. What was he doing?

Mr. BELL.—Objected to as incompetent, irrelevant and immaterial and in no way tending to show that he set up or kept the kind of a house alleged in the indictment.

The COURT.—I don't like to ask the District Attorney to state the purpose of the question, and at this time we overrule the objection until we see what is coming.

Mr. HOYT.—We will connect it, if the Court please.

A. He was fixing up a cabin back there.

Mr. BELL.—Now, if the Court please, we move to strike out the answer of the witness as wholly incompetent, irrelevant and immaterial, and in no way tending to show that the defendant set up or kept the house alleged in the indictment in this case.

The COURT.—Motion overruled.

To which the defendant excepted, and the exception was allowed."

13.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified too by the witness, John Sackett, and follows:

"Q. State what that conversation was?

A. Well, I says to Ludovic, I says, 'How much did you lose by the fire, Ludovic,—

Mr. BELL.—Objected to as incompetent, irrelevant and immaterial and not tending to prove or disprove any of the issues, in this case, or tending to show that the defendant kept the kind of a house alleged in this indictment. We make the further objection, if the Court please, that this witness' name does not appear upon the indictment as one of the witnesses who appeared before the grand jury.

The COURT.—Objection overruled.

To which ruling the defendant duly excepted, and the exception was allowed by the Court.

Q. Go on, and state the conversation.

A. Well, Ludovic was working on a cabin there—Billy Rowe was there at the time, a teamster here, and I asked Ludovic, how much did you lose by the fire? And he said, about fifteen hundred dollars; he said, that he could have sold all his cribs he had there for fifteen hundred dollars three weeks ago—I said, 'I am very sorry—too bad you lost the money' or something to that effect.

Mr. BELL.—Now; I move to strike out the answer of the witnesses because it in no way tends to prove that the defendant set up or kept the kind of a house alleged in the indictment.

The COURT.—It rather proves that he had cribs before, or rather was the owner of cribs behind the stockade before. Is that what you wish to prove?

Mr. LANDERS.—Yes, your Honor.

The COURT.—Motion overruled.

To which ruling the defendant excepted, and the exception was by the Court allowed.

Q. Did he ever admit to you that he rented this house?

Mr. BELL.—Objected to by the defendant upon the ground that it is leading, together with the last last preceding objections.

Q. Did he ever admit that the house he was working on at the time was his house, or that he owned this house?

Mr. BELL.—Same objection, if the Court please,

The COURT.—Overruled.

To which ruling the defendant excepted, and the exception was allowed by the Court.

A. Yes, this is a house he owned, or one of the houses that he owned."

14.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness, James Bell, as follows:

"Q. I will ask you if you received the seventy-five dollars mentioned in this paper, as rent for the

month commencing, August 10th, and ending September 10th, 1906, as therein described?

A. I did.

Mr. MURANE.—I desire that the answer of the witness be stricken out until, I can have an opportunity to state my objections.

The COURT.—Yes, the answer may be withdrawn for the present.

Mr. MURANE.—Object to the question, for the reason that it is irrelevant and immaterial, and not tending in any manner to show that the defendant had anything to do with the giving of this receipt, and for the further reason that if the witness so desires he need not answer the question, and may claim his privilege, and would like the Court to instruct the witness that he need not answer the question, being in the nature of a privilege communication between himself and client.

The COURT.—I take it Mr. Bell knows his privileges, if he wishes to claim them.

The WITNESS.—I don't care to claim any privilege, would just as soon answer as not, after the Court rules.

The COURT.—Objection overruled.

To which ruling the defendant excepted, and the exception was by the Court duly allowed.

A. I did."

15.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness, James Bell, as follows:

Q. Did you explain to him, what the rent had been received for, for the rent of what premises?

Mr. MURANE.—Objected to as irrelevant, incompetent and immaterial, and not binding upon this defendant.

The COURT.—Objection overruled.

To which ruling the defendant excepted, and the exception was duly allowed by the Court.

A. I rendered him a statement."

16.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness, James Bell, as follows:

"Q. Did you explain to him who his tenants were?

Mr. MURANE.—Objected to as irrelevant, incompetent and immaterial and not binding upon the defendant.

The COURT.—Objection overruled.

To which the defendant excepted, and which exception was duly allowed.

A. I don't think I did."

17.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness, James Bell, as follows:

Q. How much rent did he say he expected to get out of the property?

Mr. MURANE.—Objected to as immaterial and irrelevant and assuming something not proved.

The COURT.—Objection overruled.

To which ruling the defendant excepted, which exception was by the Court duly allowed.

A. Well, he said one of the cabins he thought should bring seventy-five dollars a month, and the other one seventy-five dollars, if I could get it; if not less.

Q. Did you come up to his expectations in that regard?

Mr. MURANE.—Objected to as irrelevant, immaterial and incompetent, and not binding in any way upon the defendant.

The COURT.—Objection overruled.

To which ruling the defendant excepted, and the exception was by the Court allowed.

A. I did not."

18.

The Court erred in admitting the testimony intro-

duced on behalf of the Government, and testified to by the witness, James Bell, as follows:

"Q. Now, Mr. Bell, you terminated your employment in the capacity of collecting these rents some time this last summer, did you not?

Mr. MURANE.—Objected to as wholly irrelevant, incompetent and immaterial and not binding upon this defendant, what this witness did in that regard.

The COURT.—Objection overruled.

To which ruling the defendant duly excepted, which exception was duly allowed by the Court.

A. When he came in I had a settlement with him and told him that I didn't care to look after the property any further; it was a great deal of bother to me."

19.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness, James, Bell, as follows:

"Q. Now, have you ever at any time within the past year, or since you have accepted the agency for the collecting of this rent at any time discussed with Mr. Ludovic the character of the business that is carried on in that house?

Mr. MURANE.—That is objected to by the defendant on the grounds that it is wholly irrelevant,

incompetent and immaterial, and not binding upon this defendant, what this witness may have told him.

The COURT.—Objections overruled.

To which ruling the defendant excepted, and which exception was duly allowed by the Court.

A. No, I don't think I have."

20.

The Court erred in admitting the testimony introduced on behalf of the Government, and testifies to by the witness, James Bell, as follows:

"Q. Did he know who had been his tenant during the past summer?

Mr. MURANE.—Objected to as wholly irrelevant, incompetent and immaterial and calling for the conclusion of the witness.

The WITNESS.—That is just the question I want to answer; I don't believe he did.

21.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness, John Sackett, as follows:

"I do not know the exact size of the cabin in question, it is one of these small cribs, probably twelve feet square, or twelve by thirteen feet; I do not know whether there is more than one room; I know about what rental values of property of that size and description outside of the restricted district is; I know

from renting a house myself; I pay twelve dollars a month.

Mr. BELL.—I move that the testimony of the witness as to rental values be stricken out because it is not shown that the witness is qualified to answer, and the answer is not responsive.

The COURT.—We will let it stand, but you had better qualify him a little farther.

To which ruling the defendant excepted, and an exception was by the Court allowed.

"Q. Do you know what the rental value of a house of about this character would be outside of the restricted district for ordinary purposes?

Mr. BELL.—Objected to as calling for the opinion of the witness.

The COURT.—Overruled.

To which ruling the defendant excepted, and the exception was duly allowed by the Court.

Mr. BELL.—On the further ground that he has not shown himself qualified to answer.

A. I know by people coming to me asking me about houses and cabins; in that way I find out about what cabins are renting for; a cabin the size of this one would be worth about twelve dollars a month; that is what I pay for one myself."

22.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness, A. Zimmer, as follows:

"Q. How large is the house referred to as the house situated upon lot 17 in block 19 of the town of Nome?

Mr. BELL.—Objected to as irrelevant, incompetent and immaterial, and does not show or tend to show that the defendant ever set up or kept the house alleged in the indictment.

The COURT.—Objection overruled.

To which ruling the defendant excepted, which exception was duly allowed.

A. According to the measurement here roughly it is twelve by twelve feet, approximately.

Q. Do you know whether the house has more than one room?

Mr. BELL.—Objected to for the same reasons.

The COURT.—Overruled.

To which ruling of the Court the defendant excepted, which exception was duly allowed.

A. Well, I think it has only one room; the map will show; there is only one room.

Q. Do you know the rental value of property of that sort situate outside of the board fence or in what is known as the restricted district in Nome?

Mr. BELL.—Defendant objects to the question upon the ground stated in the last preceding objection.

The COURT.—Overruled.

To which ruling the defendant excepted, and the exception was duly allowed by the Court.

A. Well, I have been hunting a house around in that—not in that neighborhood, but around town generally, yes.

(By consent the answer of witness was stricken out.)

I know approximately the rental value of that sort situated outside of the restricted district. I have been hunting a house for myself around that neighborhood—well, not in that neighborhood exactly, but around the central portion of the town, for the last month—I have been around house hunting.

Mr. BELL.—I object to any volunteer statements on the part of this witness and ask that his answer be stricken out because it is not responsive; it is a question which can be answered yes or no.

The COURT.—No, he is just giving the source of his information, we will not strike it out.

Q. Now, do you know the rental value of houses in the residence portion of the town and situated outside the restricted district, of that size?

The COURT.—I think you had better qualify the witness to see how much he knows, whether he is

qualified to answer. Better instruct him as to his source of knowledge, etc.

Q. What means of knowledge have you of the rental value of residence property situated in Nome outside of the restricted district?

A. Well, by trying for the last month or so to rent a house for myself, for myself and family.

Q. From that experience, do you know the rental value of such property?

Mr. BELL.—That is objected to as irrelevant, incompetent and immaterial, and for the further reason that the witness has not shown himself qualified to answer, no sufficient foundation laid for the witness to answer such question, and for the further reason that it does not in any way tend to show that the defendant was guilty of the charge of keeping or setting up the kind of a house named in the indictment.

The COURT.—You had better state a house situated outside the restricted district and in a desirable neighborhood.

Mr. BELL.—I renew my objection to the question as amended by the Court, made to the last preceding question.

The COURT.—Objection overruled.

To which ruling of the Court defendant excepted, and the exception was allowed.

A. In that district from twelve to twenty dollars a month."

23.

The Court erred in admitting the testimony introduced on behalf of the Government, and testified to by the witness Yvonne Laurent, as follows:

"Q. Did you pay your rent from the 10th of September to the 10th of October?

Mr. BELL.—Objected to as immaterial and irrelevant, also leading, and not binding upon this defendant.

The COURT.—Overruled.

To which ruling defendant excepted, and the exception was allowed.

A. Well, it was paid already—excuse me—I don't understand—I paid my rent from the 10th to the 10th in advance, but it didn't make any difference; I didn't care; I received bad news from home; it didn't make any difference to me what I had paid."

24.

The Court erred in overruling the defendant's motion to direct a verdict for the defendant.

25.

The Court erred in admitting the following testimony on cross-examination by the Government of the witness, James W. Bell, as follows:

"Q. Who made the application for the patent?

A. The application was made last fall.

Q. By whom?

Mr. MURANE.—That is objected to as immaterial, irrelevant and not proper cross-examination; the deed shows the party who made the application and is the best evidence, and desire the Court to instruct the witness that he need not answer the question if it was a privileged communication.

The COURT.—Objection overruled.

To which ruling the defendant excepted and the exception was duly allowed.

A. The application was made by Ludovic Dallagiovanna, asking that the deed be made to Leontine Gonzalis.

Q. That is the defendant here? A. Yes.

Q. Under a power of attorney to him?

Mr. MURANE.—Objected to as not proper cross-examination, and incompetent, irrelevant and immaterial for any purpose.

The COURT.—Objection overruled.

To which ruling of the Court the defendant duly excepted and which exception was allowed.

A. I did not see any power of attorney to him."

26.

The Court erred in admitting the following testimony introduced on behalf of the Government, and testified to by the witness, A. C. Schow, as follows:

"Q. Mr. Schow, I hand you Defendant's Exhibit No. 5, being a deed from W. N. Carter, party of the first part, to Leontine Gonzales, administrator of the estate of Josephine Gonzales, insane, party of the second part. I notice your name as a witness (of course this is a certified copy); do you remember anything about the execution of that deed?

Mr. BELL.—That is objected to, if the Court please, as certainly not rebuttal, and incompetent, irrelevant and immaterial. Also, if the Court please, when this deed was offered in evidence the District Attorney withdrew all objections to it and let it go in without objection. There has been no testimony offered that this could possibly be rebuttal of, and we object to the Government opening up its case in chief at this time.

The COURT.—Objection overruled.

To which ruling the defendant excepted, and which exception was duly allowed.

A. Well, I guess I can settle this very easily. This is evidently my signature, or is my signature on the original; it must be, but I don't know as I can say that I remember signing this as a witness; it is very likely that I did because I as well as every man, will often be called to witness the signing of these papers or some kind of document, but I can't remember the one in this case.

Q. Don't remember anything about the making of this deed?

Mr. BELL.—Objected to as immaterial, irrelevant, not rebuttal and also as leading and cross-examining his own witness.

The COURT.—Overruled. He has already answered it however.

To which ruling of the Court the defendant excepted, and the exception was duly allowed.

A. No, I don't remember about this one. All I could state, that if my signature is there I must have signed it, but I don't remember it; I wouldn't know if my signature was not there.

Q. Were you acquainted with Josephine or Leontine Gonzales, or either of them?

Mr. BELL. Objected to the question because it is irrelevant and immaterial and incompetent, and not rebuttal testimony, if the Court please.

The COURT.—We permit the question; objection overruled.

To which ruling of the Court the defendant duly excepted, which exception was allowed.

A. Yes, I know them by sight.

Q. Did you know the business relationship existing between the defendant Ludovic and either of them?

Mr. BELL.—Objected to as incompetent, irrelevant and immaterial and not rebuttal testimony.

The COURT.—Objection overruled.

To which ruling defendant excepted, and the exception was by the Court allowed.

A. Well, I can't say that I know one from the other, which was Josephine or which was Leontine; I could not say; I remember seeing them here; I don't know anything about their business, or what business Ludovic may have had with him. I know they purchased some ground in 1900 or 1901 for them; and that is all I know about it."

27.

The Court erred in admitting the testimony introduced on behalf of the Government and testified to by the witness, A. C. Schow, as follows:

"Q. Do you know what business Josephine Gonzales was engaged in here in Nome?

Mr. BELL.—That is objected to as irrelevant, incompetent and immaterial and not binding upon this defendant and as not rebuttal.

Mr. HOYT.—I don't care whether it is rebuttal or not; I think we have the right to put in the evidence at this time if we desire.

The COURT.—Objection overruled.

To which ruling the defendant duly excepted, and the exception was duly allowed by the Court.

A. Well, I could not swear to what their business was, no; I know they lived back in the alley.

Q. What alley?

Mr. BELL.—Same objection.

The COURT.—Overruled.

To which ruling the defendant excepted and the exception was by the Court allowed.

A. In the alley back of the houses on Front Street.

Q. The same place spoken of in this testimony as the restricted district?

Mr. BELL.—Same objection, if the Court please.

The COURT.—Overruled.

To which ruling the defendant excepted and the exception was allowed by the Court.

A. Practically the same."

28.

The Court erred in permitting counsel for the Government in his address to the jury to use the following language, over the objection of the defendant, and in not instructing the jury to disregard such statement, to wit:

"I suppose that was what was in the minds of the Grand Jury which perhaps is also in your minds, that they determined to try and put a stop to this French business of men living off the earnings of fallen women."

29.

The Court erred in giving the following instructions:

"Section 186 of the Criminal Code for Alaska, declares: 'That all persons concerned in the commission of a crime, whether it be felony or misdemeanor, and whether they directly commit the act constituting the crime or aid and abet in its commission, though not present, are principals.'

If, therefore, the evidence in this case should convince you beyond a reasonable doubt that the defendant did not actually reside in the district wherein, the house of ill fame referred to in the indictment, if any such house, there is or was, was situate, or did not have control and actual dominion of such house so as to be the keeper of the house, in the sense of conducting the house, yet if he as owner or agent, of the owner aided and abetted the person or persons who did conduct said house, if any, by knowingly furnishing the actual keeper with a place for the conducting of a house of prostitution, he will (may) in contemplation of the law be guilty of the crime of keeping or setting up a bawdy-house and if so you should not hesitate to find him guilty."

To the giving of which instruction the defendant duly excepted, and the exception was allowed.

30.

The Court erred in giving the following instructions:

"The defendant in this case is charged by the indictment with the offense of having kept or set up a house of ill-fame or bawdy-house, for the purpose of prostitution, fornication or lewdness. In order to find the defendant guilty of this offense, it is not necessary that he should be in the actual possession of the house, or living therein, or exercising such particular control over it as does the keeper of a hotel or lodging-house ordinarily, or as does the head of a family, over his domicile; all that is necessary to constitute the defendant, the keeper of the house, is evidence beyond a reasonable doubt that he had control over the renting of the house or of the management of the property for the purpose of revenue, and that he could have prevented its use for immoral purposes, and while so under his control it was actually used for purposes of prostitution, fornication or lewdness, and that he had knowledge of such use; therefore if you find from the evidence beyond a reasonable doubt, that the house in question was used for the purposes of prostitution, fornication or lewdness, or in other words was a house of ill-fame, and that the defendant either was the owner thereof, or was the attorney in fact of the owner, or was the owner's agent in any form, for

the purpose of letting the premises, and that while he was in such control thereof, the house was actually used by the lessee thereof for a bawdy-house or house of ill-fame and that he had knowledge thereof, then you must find the defendant guilty as charged in the indictment."

To the giving of which instruction the defendant duly excepted, and the exception was allowed.

31.

The Court erred in giving the following instructions:

"The jury are instructed that in all prosecutions for the offense of keeping a bawdy-house, common fame is competent evidence in support of the indictment as to the character of the house. Therefore, if the house has the reputation of being a bawdy-house or house of ill-fame, beyond a reasonable doubt, that is sufficient to support a finding that it was such, if there is no evidence offered to the contrary. The jury can take into consideration in deciding whether it is or is not a house of ill-fame not only the oral testimony as to its character, but also the physical facts adduced in the testimony as to the situation of the house with reference to other houses of prostitution or ill-fame if any, the character of the inmates, if any testimony has been given in regard thereto, the region in which the house is situated, if any testimony has been brought out tending to prove that

there is a region or district chiefly inhabited by prostitutes or given over to purposes of prostitution, and that the house in question is situated therein, or with reference to the character of the people chiefly inhabiting the district where the house is situated, And still stronger evidence, if any such there be, would be the direct, uncontradicted testimony of any witness or witnesses that the house is in fact a house of ill-fame or a house of prostitution."

To the giving of which instruction the defendant duly excepted, and the exception was allowed.

32.

The Court erred in giving the following instructions:

"You are instructed that it is not necessary to demonstrate to a mathematical certainty that the defendant had knowledge of the use to which the house was put by the occupier thereof; that degree of certainty which ordinarily moves men to act in the ordinary affairs of life is sufficient, where such degree of certainty leaves no reasonable doubt in your minds. Therefore, if you find from the evidence beyond a reasonable doubt that the house in question was located in a section of the community generally occupied by prostitutes, or that it was in a locality generally given over to occupation by prostitutes, or that it was in a section of the community demarked or separated by a barrier, fence or other

artificial boundary, from other sections of the community, within which demarked territory prostitution was generally carried on, and which demarked or separated territory was occupied generally by prostitutes, and that the house was let to a woman or women, within such demarked or separated territory, and that at or during the time while the defendant had dominion over the house either as owner agent or attorney in fact of the owner, then the jury would be fully justified in finding that the defendant had knowledge of the use to which the house was put."

To the giving of which the defendant duly excepted, and the exception was allowed.

33.

The Court erred in giving the following instructions:

"The jury are instructed that prostitution is an offense donounced by the law, and this jury is sworn to uphold and enforce the law; no matter, therefore, what may be the individual opinion of any juror or jurors as to whether or not the law on this subject is correct and wise, and no matter what sympathy, if any, any juror or jurors may have for this unfortunate class of people commonly designated as prostitutes (and surely no juror has any sympathy for those who pander to such vices or live off the earnings of prostitutes, either directly or indirectly), sympathy or personal feeling should have no weight

with any juror, but each juror should honestly, as a man, and under his oath, decide this case upon the evidence before him as guided by these instructions."

To the giving of which instruction the defendant duly excepted, and the exception was allowed.

34.

The Court erred in giving the following instructions:

"The jury are instructed that a reasonable doubt is a doubt arising from the evidence or lack of evidence in the case, and must be reasonable and not frivolous; it must not be a mere conjecture, and the jury are bound by their oaths not to go outside of the evidence to hunt up a doubt or an excuse which they may choose to call a doubt for the purpose of avoiding the performance of what may be to them a disagreeable duty, and they are as much bound by their oaths not to do this as they are bound by their oaths as honest men to render a fair and impartial verdict, without fear of any man and with favor to none; and therefore, as honest men and as oath-bound jurors, the jury should not fail to find a verdict because of a doubt of the defendant's guilt under the testimony and under these instructions, unless it be a doubt arising either from the evidence before you, or from lack of evidence and for which doubt a good reason can be given to your consciences and to your fellow jurors."

To the giving of which instruction the defendant duly excepted, and the exception was allowed.

35.

The Court erred in refusing to give the following instruction requested by the defendant:

"I instruct you that under the statute common fame is made competent evidence of the character of the house in question, but reputation or fame alone is not sufficient evidence to warrant a conviction for keeping a bawdy-house; there must be some other evidence showing that the house is actually used as a bawdy-house."

To which refusal of the Court the defendant duly excepted, and the exception was allowed.

36.

The Court erred in refusing to give the following instruction requested by the defendant:

"If you find from the evidence beyond a reasonable doubt that the house in question is a bawdy-house, you must further find that the defendant is the keeper of said house, that is, has dominion and control over said house and the right to admit persons or exclude them from said house, before you can find him guilty of keeping a bawdy-house."

To which refusal of the Court the defendant duly excepted, and the exception was allowed.

37.

The Court erred in refusing to give the following instruction requested by the defendant:

"If you find from the evidence beyond a reasonable doubt that said house is a bawdy-house kept for the purpose of prostitution and lewdness, and that the defendant is not the owner of said house, but that said defendant rented said house acting as agent for an owner, then before you can find him guilty of keeping a bawdy-house, you must find from the evidence beyond a reasonable doubt that the defendant rented said house knowing that the lessees intended to use said house for the purpose of prostitution or bawdry, and that they did so use it to the knowledge of defendant."

To which refusal of the Court the defendant duly excepted, and the exception was allowed.

38.

The Court erred in refusing to give the following instruction requested by the defendant:

"You are instructed that there have been documents introduced in evidence which tend to show that the defendant is not the owner of the house in question, and if you should find from the evidence that the defendant is not the owner of said premises, then you must find beyond a reasonable doubt that the defendant was acting for the owner of said premises and that said defendant rented said premises while acting

for said owner with knowledge that the lessees intended to use said premises for a bawdy-house or house of prostitution, and that defendant collected the rents for said premises with knowledge of the purposes for which they were being used; otherwise you should find the defendant not guilty."

To which refusal of the Court the defendant duly excepted, and the exception was allowed.

40.

The Court erred in refusing to give the following instruction requested by the defendant:

"If you find from the evidence that some person other than the defendant leased said premises to lessees who used said premises for the purpose of prostitution or bawdry, and that the defendant had no knowledge of the character of the persons to whom said premises were leased, the mere fact that he received the rents from the person who leased said premises for unlawful purposes would not charge him with knowledge of the fact, if you should find it to be a fact, that said house was being used for prostitution or bawdry, and you could not find the defendant guilty of setting up or keeping a bawdy-house."

To which refusal of the Court the defendant duly excepted, and the exception was allowed.

41.

The Court erred in entering judgment upon the verdict of the jury.

Wherefore, said defendant prays that said judgment may be reversed and a new trial granted herein.

C. D. MURANE,
HOBBES & BELL,
Attorneys for Defendant.

Due service of the foregoing assignment of error is hereby admitted this 22d day of October, 1906.

_____,
United States District Attorney.

[Endorsed]: Case No. 492-Crim. In the District Court for the District of Alaska, Second Division. United States of America, Plaintiff, vs. Ludovic Dallagiovanna, Defendant. Assignment of Errors. Filed in the Office of the Clerk of the Dist. Court of Alaska, Second Division, at Nome. Oct. 22, 1906. Jno. H. Dunn, Clerk. Messrs. Hobbes & Bell, and C. D. Murane, Esq., Attorneys for Defendant.

In the District Court for the District of Alaska, Second Division.

UNITED STATES OF AMERICA,
Plaintiff,
vs.
LUDOVIC DALLAGIOVANNA,
Defendant.

Petition for Writ of Error and Supersedeas.

Ludovic Dallagiovanna, defendant in the above-entitled cause, feeling himself aggrieved by the verdict of the jury, and the judgment entered on the 17th day of October, 1906, comes now by Messrs. Hobbes and Bell and C. D. Murane, Esq., his attorneys, and petitions said Court for an order allowing said defendant to prosecute a writ of error to the Honorable, the United States Circuit Court of Appeals for the Ninth Circuit, under and according to the laws of the United States in that behalf made and provided, and also that an order be made fixing the amount of bond which the defendant shall give and furnish upon said writ of error, and that upon the giving of such bond all further proceedings in this Court be suspended and stayed until the determination of said writ of error by the United States Circuit Court of Appeals for the Ninth Circuit.

And your petitioner will ever pray.

C. D. MURANE,
HOBBES & BELL,
Attorneys for Defendant.

Let a writ of error in the above cause issue as prayed for in the petition, and the amount of the bond on said writ of error be, and the same is hereby fixed at one thousand dollars to operate as a supersedeas.

Dated this 22d day of October, 1906.

ALFRED S. MOORE,
District Judge.

[Endorsed]: Case No. 492-Crim. In the District Court for the District of Alaska, Second Division. United States of America, Plaintiff, vs. Ludovic Dallagiovanna, Defendant. Petition for Writ of Error and Supersedeas and Order. Filed in the Office of the Clerk of the Dist. Court of Alaska, Second Division, at Nome. Oct. 22, 1906. Jno. H. Dunn, Clerk. Messrs. Hobbes & Bell C. D. Murane, Esq., Attorneys for Defendant.

In the District Court for the District of Alaska, Second Division.

UNITED STATES,
Plaintiff,

vs.

LUDOVIC DALLAGIOVANNA,
Defendant.

Bond on Writ of Error and Supersedeas.

Know all men by these presents, that we, Ludovic Dallagiovanna, as principal, and Ed. E. Hill and W. Arthurs, as sureties, are held and firmly bound unto the United States of America, plaintiff above named, in the sum of $1,000.00 to be paid to the United States

of America, to which payment, well and truly to be made, we bind ourselves and each of jointly and severally, and our and each of our successors, representatives and assigns, firmly by these presents.

Sealed with our seals and dated October 22d, 1906.

The condition of the above obligation is such that, whereas the above-named defendant has sued out a writ of error to the United States Circuit Court of Appeals, for the Ninth Circuit, to reverse the judgment in the above-entitled cause by the District Court for the District of Alaska, Second Division.

Now, therefore the condition of this obligation is such that if the above-named Ludovic Dallagiovanna shall prosecute said writ to effect and answer all costs and damages, if he shall fail to make good his plea, and in that event shall also render himself amenable, and in all respects abide and perform the orders and judgments of the above-entitled Court, and of the said Appellate Court, and render himself in execution in case the said judgment is not reversed, then this obligation shall be void; otherwise to remain in full force and virtue.

LUDOVIC DALLAGIOVANNA,
By JAS. BELL, (L. S.)
His Attorney.
ED. E. HILL. (L. S.)
W. ARTHURS. (L. S.)

United States of America,
District of Alaska,—ss.

Ed. F. Hill and W. Arthurs, being first duly sworn, each for himself, deposes and says: I am a resident of the District of Alaska; I am not a counselor or an attorney at law, marshal, deputy marshal, clerk of any court or other officer of any court; I am worth the sum of $1,000, over and above all just debts in property not exempt from execution.

ED. F. HILL.
W. ARTHURS.

Subscribed and sworn to before me this 22d day of October, 1906.

[Notarial Seal] JAS. W. BELL,
A Notary Public in and for the District of Alaska.

The foregoing bond and sufficiency of the sureties approved this 22d day of October, 1906.

ALFRED S. MOORE,
District Judge.

[Endorsed]: No. 452-Crim. In the United States District Court for the District of Alaska, Second Division. United States, Plaintiff, vs. Ludovic Dallagiovanna, Defendant. Bond on Writ of Error and Supersedeas. Filed in the Office of the Clerk of the Dist. Court of Alaska, Second Division, at Nome, Oct. 22, 1906. Jno. H. Dunn, Clerk. Jas. W. Bell, Attorney for ———.

Writ of Error (Copy).

UNITED STATES OF AMERICA—ss.

The President of the United States, to the Honorable, the Judge of the District Court for the Second Division of the District of Alaska, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of the plea, which is in the said District Court, before you, between the United States of America, plaintiff, and Ludovic Dallagiovanna, defendant, a manifest error hath happened to the great damage of the said Ludovic Dallagiovanna, defendant, as is said and appears by the petition herein.

We, being willing that error, if any, hath been, should be duly corrected, and fully and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be given therein, that then under your seal, distinctly and openly, you send the records and proceedings aforesaid, with all things concerning the same, to the Justices of the United States Circuit Court of Appeals for the Ninth Circuit, in the city of San Francisco, in the State of California together with this writ, so as to have the same at the said place in court on the 21st day of November, 1906, that the record and proceedings aforesaid being inspected, the said Circuit Court of

Appeals may cause further to be done therein to correct those errors what of right, and according to the laws and customs of the United States, should be done.

Witness the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, this 22d day of October, 1906.

Attest my hand and seal of the District Court for the Second Division of the District of Alaska, on the day and year last above written.

[Court Seal] JNO. H. DUNN,
Clerk of the District Court for the District of Alaska, Second Division.

By Angus McBride,
Deputy Clerk.

Allowed this 22d day of October, 1906.

ALFRED S. MOORE,
District Judge.

Service admitted Oct. 22d, 1906.

HENRY M. HOYT,
U. S. Atty.

[Endorsed]: Case No. 492-Crim. In the District Court for the District of Alaska, Second Division. United States of America, Plaintiff, vs. Ludovic Dallagiovanna, Defendant. Writ of Error Lodged Copy. Lodged Copy Filed this —— day of October, 1906. Filed in the Office of the Clerk of the Dist. Court of Alaska, Second Division, at Nome. Oct.

22, 1906. Jno. H. Dunn, Clerk. Messrs. Hobbes and Bell and C. D. Murane, Esq., Attorney for ——.

United States of America, District Court, District of Alaska, Second Division.

Cause No. 492-Crim.

UNITED STATES,

Plaintiff,

vs.

LUDOVIC DALLAGIOVANNA,

Defendant.

Praecipe for Transcript.

To the Clerk of the Above-entitled Court:

You will please make up record in above case, including indictment, demurrer, plea in abatement, instructions, exhibits, and minutes, and forward same to Circuit Court at once.

JAS. W. BELL,
Atty. for Defendant.

[Endorsed]: Cause No. 492-Crim. District Court, District of Alaska, Second Division. United States, Plaintiff, vs. Ludovic Dallagiovanna, Defendant. Praecipe. Filed in the Office of the Clerk of the Dist. Court of Alaska, Second Division, at Nome, Alaska. Oct. 22, 1906. Jno. H. Dunn, Clerk.

In the District Court for the District of Alaska, Second Division.

No. 492-Criminal.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LUDOVIC DALLAGIOVANNA,

Defendant.

Clerk's Certificate to Transcript.

I, John H. Dunn, clerk of the District Court of the District of Alaska, Second Division, do hereby certify that the foregoing typewritten pages, from 1 to 141, both inclusive, is a true and exact transcript of the indictment, minute order Defendant released on bond, plea in abatement, demurrer to indictment, minute order overruling plea in abatement and demurrer, minute order trial begun, minute order trial resumed, verdict, instructions given by the Court, judgment, bill of exceptions, minute order to file petition for appeal, assignment of errors, petition for writ of error and supersedeas and order allowing writ, bond on writ of error and supersedeas, lodged copy writ of error, praecipe for transcript, in the case of the United States of America vs. Ludovic Dallagiovanna, No. 492-Criminal, this Court, and of the whole thereof as appears

from the records and files in my office at Nome, Alaska; and further certify that the original writ of error and the original citation in the above-entitled cause are attached to this transcript.

Cost of transcript $42.55, paid by Jas. W. Bell, Attorney for defendant.

In witness whereof, I have hereunto set my hand and affixed the seal of said Court this 24 day of October, A. D. 1906.

[Seal] JNO. H. DUNN,
Clerk.
By Angus McBride,
Deputy Clerk.

Writ of Error (Original).

UNITED STATES OF AMERICA—ss.

The President of the United States to the Honorable, the Judge of the District Court for the Second Division of the District of Alaska, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said District Court, before you, between the United States of America, plaintiff, vs. Ludovic Dallagiovanna, defendant, a manifest error hath happened, to the great damage of the said Ludovic Dal-

lagiovanna, defendant, as is said and appears by the petition herein.

We, being willing that error, if any hath been, should be duly corrected, and fully and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be given therein, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Justices of the United States Circuit Court of Appeals for the Ninth Circuit, in the city of San Francisco, in the State of California, together with this writ, so as to have the same at the said place in court on the 21st day of November, 1906, that the record and proceedings aforesaid being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct those errors what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, this 22d day of October, 1906.

Attest my hand and seal of the District Court for the Second Division of the District of Alaska, on the day and year last above written.

[Seal] JNO. H. DUNN,

Clerk of the District Court for the District of Alaska, Second Division.

By Angus McBride,

Deputy Clerk.

Allowed this 22d day of October, 1906.

ALFRED S. MOORE,

District Judge.

Service admitted Oct. 22d, 1906.

HENRY M. HOYT,

U. S. Atty.

[Endorsed]: Case No. 492-Crim. In the District Court for the District of Alaska, Second Division. United States of America, Plaintiff, vs. Ludovic Dallagiovanna, Defendant. Writ of Error.

In the District Court for the District of Alaska, Second Division.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LUDOVIC DALLAGIOVANNA,

Defendant.

Citation.

United States of America—ss.

M. Hoyt, for the District of Alaska, Second Division, Greeting:

You are hereby cited and admonished to be and ap-

The President of the United States of America to the United States and the District Attorney, Henry for the Ninth Circuit, to be held at the city and county of San Francisco, in the State of California on the 21st day of November, 1906, pursuant to writ of error filed in the clerk's office of the District Court for the District of Alaska, Second Division, wherein Ludovic Dallagiovanna is plaintiff in error, and you defendant in error, to show cause if any there be why judgment in the said writ of error mentioned should not be granted, and speedy justice should not be done to the party in that behalf.

Witness the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States of America, this 22d day of October, pear at the United States Circuit Court of Appeals,

1906, and of the Independence of the United States the one hundred and thirty-first.

ALFRED S. MOORE,

Judge of the District Court for the District of Alaska, Second Division.

_____,

Clerk.

Due service of the foregoing citation is hereby admitted this 22d day of October, 1906.

HENRY M. HOYT,

U. S. Atty.

[Endorsed]: Case No. 492-Crim. In the District Court for the District of Alaska, Second Division. United States of America, Plaintiff, vs. Ludovic Dallagiovanna, Defendant. Citation.

[Endorsed]: No. 1402. United States Circuit Court of Appeals for the Ninth Circuit. Ludovic Dallagiovanna, Plaintiff in Error, vs. United States of America, Defendant in Error. Transcript of Record. Upon Writ of Error to the United States District Court for the District of Alaska, Second Division.

Filed November 15, 1906.

F. D. MONCKTON,

Clerk.